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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: Tuesday, April 17, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 66, No. 67
Friday, April 6, 2001

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective March 20, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 5.0 percent to 4.5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 50-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors noted that persistent pressures on profit margins are restraining investment spending and, through declines in equity wealth, consumption. The associated backup in inventories has induced a rapid response in manufacturing output and, with spending having firmed a bit since last year, inventory adjustment appears to be well underway.

Although current developments do not appear to have materially diminished the prospects for long-term growth in productivity, excess productive capacity has emerged recently. The possibility that this excess could continue for some time and the potential for weakness in global economic conditions suggest substantial risks that demand and production could remain soft. In these circumstances, when the economic situation could be evolving rapidly, the Federal Reserve will need to monitor developments closely.

The Committee continues to believe that against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	4.5	March 20, 2001.
New York	4.5	March 20, 2001.
Philadelphia	4.5	March 20, 2001.
Cleveland	4.5	March 20, 2001.
Richmond	4.5	March 20, 2001.
Atlanta	4.5	March 20, 2001.
Chicago	4.5	March 20, 2001.
St. Louis	4.5	March 21, 2001.
Minneapolis	4.5	March 20, 2001.
Kansas City	4.5	March 20, 2001.
Dallas	4.5	March 20, 2001.
San Francisco	4.5	March 20, 2001.

By order of the Board of Governors of the Federal Reserve System, April 2, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–8449 Filed 4–5–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE164; Special Conditions No. 23–106–SC]

Special Conditions: Ayres Corporation, Model LM 200, ''Loadmaster'' Cargo and Baggage Compartment Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Ayres Corporation Model LM 200 ''Loadmaster'' airplane. This airplane will have a novel or unusual design feature(s) associated with all-cargo and combination cargo/passenger (COMBI) interior configurations. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: May 7, 2001.

FOR FURTHER INFORMATION CONTACT: Les Taylor, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816–329–4134, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 1996, Ayres Corporation, Post Office Box 3090, Albany, Georgia 31708, applied for a commuter category, all-cargo type certificate for their new Model LM 200 airplane. In May 1997, they reapplied for passenger and COMBI interior configurations. The Model LM 200 airplane is a nine-passenger, twin-engine airplane. The LM 200 will have all-cargo and COMBI versions.

The Model LM 200 all-cargo and COMBI airplanes are considered a novel design and were not considered when those airworthiness standards were promulgated. The FAA has determined that the existing regulations do not provide adequate or appropriate safety standards for cargo and baggage compartment fire protection in these versions of the LM 200. In order to provide a level of safety that is equivalent to that afforded to occupants of the passenger version, additional airworthiness standards, in the form of additional special conditions, are necessary.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Ayres Corporation must show that the Model LM 200 meets the applicable provisions of 14 CFR part 23 as amended by Amendments 23–1 through 23–53, effective April 30, 1998, and any exemptions, equivalent level of safety findings and special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 23) do not contain adequate or appropriate safety standards for the Model LM 200 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model LM 200 must comply with the part 23 fuel vent and exhaust emission requirements of 14 CFR part 34, and the part 23 noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model LM 200 will incorporate the following novel or unusual design features: an all-cargo and a COMBI interior configuration.

Discussion of Comments

Notice of proposed special conditions No. 23–01–01–SC for the Ayres Corporation Model LM 200 ''Loadmaster'' airplanes was published on January 22, 2001 (66 FR 6492). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model LM 200 airplane. Should Ayres Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11 49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Ayres Corporation Model LM 200 airplane applicable to the all-cargo and COMBI interior configurations.

In addition to the part 23 regulations required by the certification basis of the airplane, the following are also required for cargo or baggage compartments:

(a) Flight tests must demonstrate means to exclude hazardous quantities of smoke, flames, or extinguishing agent from any compartment occupied by crew or passengers.

(b) Cargo compartments shall have either fire or smoke detection provisions, or both, unless the compartment location is such that a fire can be easily detected by the pilots while seated at their duty stations. The cargo and baggage fire protection must be in accordance with § 23.855 as well as the following:

1. The detection system must provide a visual indication to the flight crew within one minute after the start of a fire.

2. The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased.

3. There must be means to allow the crew to check the functioning of each fire detector circuit while in flight.

4. The detection system effectiveness must be shown for all approved operating configurations and conditions.

(c) The flight crew must have means to shut off the ventilating airflow to or within the compartment, from the pilot's station, on an all-cargo configuration.

(d) Passenger and COMBI configurations where the cargo or baggage compartment are not accessible to the flightcrew, must have an approved, built-in fire extinguishing system. The built-in fire extinguishing system shall be controllable from the pilot's station. There must be means to control ventilation and drafts within an inaccessible cargo or baggage compartment so the extinguishing agent can control any fire that may start in the compartment. The built-in fire extinguishing system must be installed so that no extinguishing agent likely to enter the personnel compartments will be hazardous to the occupants. The discharge of the fire extinguishing system must not cause structural damage. The capacity of the extinguishing system must be adequate for any fire likely to occur in the compartment where used. Consideration must be given to the volume of the compartment and the ventilation rate.

(e) In addition to the fire extinguishers required by § 23.851, a hand fire extinguisher must be readily accessible for use in each cargo and baggage compartment that is accessible to crewmembers in flight. Hazardous quantities of smoke, flames or extinguishing agent must not enter any compartment occupied by crew or passengers, when the access to that compartment is used.

(f) Protective breathing equipment must be installed for crewmembers in each crewmember compartment. Protective breathing equipment must:

1. Be designed to protect the flightcrew from smoke, carbon dioxide and other harmful gases at the pilot's station and while combating fires in cargo or baggage compartments.

2. Have masks that cover the eyes, nose and mouth; or masks that cover the nose and mouth plus accessory equipment to cover the eyes.

3. Allow the flightcrew to use the radio equipment and to communicate with each other while at their assigned stations.

4. Not cause any appreciable adverse effect on vision and must allow corrective glasses to be worn.

5. Supply protective oxygen of 15 minutes duration per crewmember at a pressure altitude of 8,000 feet with a respiratory minute volume of 30 liters per minute BTPD (BTPD refers to body temperature conditions (that is 37 °C at ambient pressure, dry)). If a demand oxygen system is used, a supply of 300 liters of free oxygen at 70 °F. and 760 mm. Hg. pressure is considered to be adequate to meet the 15-minute-duration requirement at the prescribed altitude and minute volume. If a continuous flow protective breathing system is used (including a mask with a standard rebreather bag), a flow rate of 60 liters per minute at 8,000 feet (45 liters per minute at sea level) and a supply of 600 liters of free oxygen at 70 °F and 760 mm. Hg. pressure is considered to be adequate to meet the 15-minute-duration requirement at the prescribed altitude and minute volume.

6. Be free from hazards in itself, in its method of operation, and in its effect upon other components.

7. Have a means to allow the crew to readily determine, during flight, the quantity of oxygen available in each source of supply.

Issued in Kansas City, Missouri on March 28, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–8513 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2000–ASW–21]

Revocation of Class E Airspace, Gage, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revokes the Class E Airspace at Gage, OK.

EFFECTIVE DATE: The direct final rule published at 66 FR 8364 is effective 0901 UTC, May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 31, 2001, (66 FR 8364). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 17, 2001. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on March 28, 2001.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 01–8440 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8881]

RIN 1545–AX53; 1545–AV27; 1545–AV41

Revisions to Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Revisions of Information Reporting Regulations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 8881) which were published in the **Federal Register** on Monday, May 22, 2000 (65 FR 32152). The final regulations relate to withholding of tax on certain U.S. source income paid to foreign persons and related requirements governing the collection, deposit, refunds, and credits of withheld amounts under sections 1461 through 1463.

DATES: This correction is effective January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Carl Cooper, Laurie Hatten-Boyd, or Kate Hwa (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 1441 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8881) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (TD 8881), which were the subject of FR Doc. 00–11937, is corrected as follows:

§ 1.1441–1 [Corrected]

1. On page 32174, columns 1 and 2, § 1.1441(b)(3)(ii)(C) is corrected to read as follows:

§ 1.1441–1 Requirement for the deduction and withholding of tax on payments to foreign persons.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) *Documentary evidence furnished for offshore account.* If the withholding agent receives valid documentary evidence, as described in § 1.6049–5(c)(1) or (4), with respect to an offshore account from an entity but the documentary evidence does not establish the entity's classification as a corporation, trust, estate, or partnership, the withholding agent may presume (in the absence of actual knowledge otherwise) that the entity is the type of person enumerated under § 1.6049–4(c)(1)(ii)(B) through (Q) if it can be so treated under any one of those paragraphs without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in § 1.6049–4(c)(1)(ii)(B) through (Q), then the payee shall be presumed to be a corporation unless the withholding agent knows, or has reason to know, that the entity is not classified as a corporation for U.S. tax purposes. If a payee is, or is presumed to be, a corporation under this paragraph (b)(3)(ii)(C) and a foreign person under paragraph (b)(3)(iii) of this section, a withholding agent shall not treat the payee as the beneficial owner of income if the withholding agent knows, or has reason to know, that the payee is not the beneficial owner of the income. For this purpose, a withholding agent shall have reason to know that the payee is not a beneficial owner if the documentary evidence indicates that the payee is a bank, broker, intermediary, custodian, or other agent, or is treated under § 1.6049–4(c)(1)(ii)(B) through (Q) as such a person. A withholding agent may, however, treat such a person as a beneficial owner if the foreign person provides a statement, in writing and signed by a person with authority to sign the statement, that is attached to the documentary evidence stating it is the beneficial owner of the income.

* * * * *

2. On page 32175, column 2, § 1.1441–1(b)(3)(vi), line 5, the language ''this section that has not agreed to be'' is corrected to read ''this section that has provided a withholding certificate as described in paragraph (e)(3)(v) of this section on which it has not agreed to be''.

3. On page 32175, column 2, § 1.1441–1(b)(3)(vii)(B), line 9, the language ''defined in § 1.6059–5(e)) to an offshore'' is corrected to read ''defined in § 1.6049–5(e)) to an offshore''.

4. On page 32176, column 3, § 1.1441–1(c)(14), line 3, the language ''intermediary that is not a qualified'' is corrected to read ''intermediary that is not a U.S. person and not a qualified''.

5. On page 32179, column 1, § 1.1441–1(e)(3)(iii)(D), line 7, the language ''(e)(3)(iii) or paragraph (e)(3)(iv) of this'' is corrected to read ''(e)(3)(iii) or paragraph (e)(5)(iv) of this''.

6. On page 32180, column 1, § 1.1441–1(e)(3)(iv)(C)(*1*), line 8, the language ''intermediary to the withholding agent'' is corrected to read ''intermediary and provided to the withholding agent''.

7. On page 32180, column 2, § 1.1441–1(e)(3)(iv)(C)(*2*), line 5 from the top of the column, the language ''person), the withholding certificate'' is corrected to read ''person), the withholding statement''.

8. On page 32180, column 3, § 1.1441–1(e)(3)(iv)(D)(*2*), line 3, the language ''(e)(3)(iv)(B)(*2*) of this section allocating'' is corrected to read ''(e)(3)(iv)(C)(*2*) of this section allocating''.

9. On page 32180, column 3, § 1.1441–1(e)(3)(iv)(D)(*2*), line 11, the language ''(e)(3)(iv)(B) of this section. Further, each'' is corrected to read ''(e)(3)(iv)(C) of this section. Further, each''.

10. On page 32180, column 3, § 1.1441–1(e)(3)(iv)(D)(*2*), line 25, the language ''(e)(3)(iv)(B) of this section (other than'' is corrected to read ''(e)(3)(iv)(C) of this section (other than''.

11. On page 32181, column1, § 1.1441–1(e)(3)(iv)(D)(*3*), line 6, the language ''payee (including U.S. non-exempt'' is corrected to read ''payee (including U.S. exempt''.

12. On page 32186, columns 1 and 2, § 1.1441–1(e)(5)(v)(C)(*2*), is corrected to read as follows:

§ 1.1441–1 Requirement for the deduction and withholding of tax on payments to foreign persons.

* * * * *

(e) * * *

(5) * * *

(v) * * *

(C) * * *

(*2*) *Alternative procedure for U.S. non-exempt recipients.* If permitted under its agreement with the IRS, a qualified intermediary may, by mutual agreement with a withholding agent, establish a single zero withholding rate pool that includes U.S. non-exempt recipient account holders for whom the qualified intermediary has provided Forms W–9 prior to the withholding agent paying any reportable payments, as defined in the qualified intermediary agreement, and a separate withholding rate pool (subject to 31-percent withholding) that includes only U.S. non-exempt recipient account holders for whom a qualified intermediary has not provided Forms W–9 prior to the withholding agent paying any reportable payments. If a qualified intermediary chooses the alternative procedure of this paragraph (e)(5)(v)(C)(*2*), the qualified intermediary must provide the information required by its qualified intermediary agreement to the withholding agent no later than January 15 of the year following the year in which the payments are paid. Failure to provide such information will result in the application of penalties to the qualified intermediary under sections 6721 and 6722, as well as any other applicable penalties, and may result in the termination of the qualified intermediary's withholding agreement with the IRS. A withholding agent shall not be liable for tax, interest, or penalties for failure to backup withhold or report information under chapter 61 of the Internal Revenue Code due solely to the errors or omissions of the qualified intermediary. If a qualified intermediary fails to provide the allocation information required by this paragraph (e)(5)(v)(C)(*2*), with respect to U.S. non-exempt recipients, the withholding agent shall report the unallocated amount paid from the withholding rate pool to an unknown recipient, or otherwise in accordance with the appropriate Form 1099 and the instructions accompanying the form.

* * * * *

§ 1.1441–5 [Corrected]

12a. On page 32193, column 2, § 1.1441–5(e)(5), paragraph (e)(5)(*ii*) is correctly designated as paragraph (e)(5)(ii).

13. On page 32193, column 3, § 1.1441–5(e)(5)(ii), the last 2 lines of

the paragraph, the language ''having to identify any partner's distributive share of the payment.'' is corrected to read ''having to identify any beneficiary's or grantor's distributive share of the payment.''.

§ 1.1441–7 [Corrected]

14. On page 32198, columns 1 and 2, § 1.1441–7(b)(4)(i) is corrected to read as follows:

§ 1.1441–7 General provisions relating to withholding agents.

* * * * *

(b) * * *

(4) * * * (i) *In general.* A withholding agent has reason to know that a beneficial owner withholding certificate provided by a direct account holder in connection with a payment of an amount described in § 1.1441–6(c)(2) is unreliable or incorrect if the withholding certificate is incomplete with respect to any item on the certificate that is relevant to the claims made by the direct account holder, the withholding certificate contains any information that is inconsistent with the direct account holder's claim, the withholding agent has other account information that is inconsistent with the direct account holder's claim, or the withholding certificate lacks information necessary to establish entitlement to a reduced rate of withholding. For purposes of establishing a direct account holder's status as a foreign person or resident of a treaty country a withholding certificate shall be considered unreliable or inconsistent with an account holder's claims only if it is not reliable under the rules of paragraphs (b)(5) and (6) of this section. A withholding agent that relies on an agent to review and maintain a withholding certificate is considered to know or have reason to know the facts within the knowledge of the agent.

* * * * *

15. On page 32198, column 3, § 1.1441–7(b)(5)(i)(A)(*1*), lines 4 and 5, the language ''address) that is no more than three years old, the documentary evidence supports'' is corrected to read ''address) that has been provided within the past three years, was valid at the time it was provided, the documentary evidence supports''.

16. On page 32201, column 1, § 1.1441–7(b)(10)(ii), line 21, the language ''withholding certificate relates. A'' is corrected to read ''withholding certificate. A''.

§ 1.1461–1 [Corrected]

17. On page 32201, column 3, § 1.1461–1, in the section heading, the language ''Payment and returns of tax withhold'' is corrected to read ''Payment and returns of tax withheld''.

18. On page 32202, column 1, § 1.1461–1(c)(1)(ii)(A)(*1*), line 2, the language ''paragraph (c)(6) of this section,'' is corrected to read ''§ 1.1441–1(c)(6),''.

19. On page 32202, column 3, § 1.1461–1(c)(2)(i) is corrected by adding the language ''and'' at the end of the last line of paragraph (c)(2)(i)(L), removing paragraph (c)(2)(i)(M), and correctly designating paragraph (c)(2)(i)(N) as paragraph (c)(2)(i)(M).

20. On page 32203, column 1, § 1.1461–1(c)(2)(ii)(H) is corrected to read as follows:

§ 1.1461–1 Payment and returns of tax withheld.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(H) Interest (including original issue discount) paid with respect to foreign-targeted registered obligations described in § 1.871–14(e)(2) to the extent the documentation requirements described in § 1.871–14(e)(3) and (4) are required to be satisfied (taking into account the provisions of § 1.871–14(e)(4)(ii), if applicable;

* * * * *

§ 1.6045–1 [Corrected]

21. On page 32206, column 2, § 1.6045–1(g)(3)(iv), lines 6 and 7, the language ''broker has actual knowledge or reason to know (within the meaning of'' is corrected to read ''broker has actual knowledge (within the meaning of''.

§ 1.6049–5 [Corrected]

22. On page 32207, column 3, § 1.6049–5(c)(4) introductory text, lines 2 and 3, the language ''modifies the provisions of this paragraph (c) for payments to offshore'' is corrected to read ''modifies the provisions of paragraph (c)(1) of this section for payments to offshore''.

23. On page 32208, columns 2 and 3, § 1.6049–5(d)(2)(i), is corrected to read as follows:

§ 1.6049–5 Interest and original issue discount subject to reporting after December 31, 1982.

* * * * *

(d) * * *

(2) * * * (i) *In general.* Except as otherwise provided in this paragraph (d)(2)(i), for purposes of this section (and other sections of regulations under this chapter to which this paragraph (d)(2) applies), the provisions of § 1.1441–1(b)(3)(i) through (ix) and § 1.1441–5(d) and (e)(6) shall apply (by applying the term *payor* instead of the term *withholding agent*) to determine the classification (e.g., individual, corporation, partnership, trust), status (i.e., a U.S. or a foreign person), and other relevant characteristics (e.g., beneficial owner or intermediary) of a payee if a payment cannot be reliably associated with valid documentation under § 1.1441–1(b)(2)(vii) irrespective of whether the payments are subject to withholding under chapter 3 of the Internal Revenue Code. The provisions of § 1.1441–1(b)(3)(iii)(D) and (vii)(B) shall not apply, however, to payments to amounts that are not subject to withholding. The rules of § 1.1441–1(b)(2)(vii) shall apply for purposes of determining when a payment can reliably be associated with documentation, by applying the term *payor* instead of the term *withholding agent.* For this purpose, the documentary evidence or statement described in paragraph (c)(4) of this section can be treated as documentation with which a payment can be associated.

* * * * *

24. On page 32208, column 3, § 1.6049–5(d)(2)(ii), line 11, the language ''described in § 1.1441–6(c)(2) that are'' is corrected to read ''described in § 1.1441–6(c)(2) (or credits an account with broker proceeds from securities described in § 1.1441–6(c)(2)), that are''.

25. On page 32209, column 2, § 1.6049–5(d)(3)(i), line 11 from the top of the column, the language ''determine the payees status for'' is corrected to read ''determine the payee's status for''.

26. On page 32209, column 2, § 1.6049–5(d)(3)(ii), the last line in the paragraph, the language ''an exempt recipient.'' is corrected to read ''an exempt recipient and has actual knowledge of the amount allocable to such a person.''.

27. On page 32209, column 2, § 1.6049–5(d)(3)(iii)(A), line 13, the language ''§ 1.1441–1(b)(3)(ii)(C) or (v)(A) shall be'' is corrected to read ''§ 1.1441–1(b)(3)(ii)(C), (v)(A), § 1.1441–5(d) or (e), shall be''.

28. On page 32209, column 3, § 1.6049–5(d)(3)(iii)(B), line 4 from the top of the column, the language ''under § 1.1441–3(b)(ii)(C) or (v)(A) for'' is corrected to read ''as an intermediary for''.

PART 1—[CORRECTED]

29. On page 32212, the table in amendatory instruction Par. 18 is

corrected by adding two entries in numerical order to read as follows:

Section	Remove	Add
* * * * * * *		
1.6045–1(g)(1)(i), first sentence	or presumed to be made to a foreign payee under § 1.6049–5(d)(2), (3), (4), or (5).	or presumed to be made to a foreign payee under § 1.6049–5(d)(2) or (3).
* * * * * * *		
1.6049–5(b)(12), first sentence	or presumed to be made to a foreign payee under paragraph (d)(2), (3), (4), or (5) of this section.	or presumed to be made to a foreign payee under paragraph (d)(2) or (3) of this section
* * * * * * *		

LaNita VanDyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–8136 Filed 4–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8933]

RIN 1545–AX33

Qualified Transportation Fringe Benefits; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Thursday, January 11, 2001 (66 FR 2241), that ensure that transportation benefits provided to employees are excludable from gross income.

DATES: This correction is effective January 11, 2001.

FOR FURTHER INFORMATION CONTACT: John Richards at (202) 622–6040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 132(f) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8933), do not address what taxable year is used for purposes of the applicability dates in the regulations. These final regulations are being corrected to clarify that the applicability dates in the regulations are based on the employee taxable year and that, for this purpose, an employer may assume that the employee taxable year is the calendar year.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8933), which were the subject of FR Doc. 01–294, is corrected as follows:

§ 1.132–9 [Corrected]

1. On page 2251, column 3, § 1.132–9(b), paragraph (a) of A–25, last two lines of the paragraph, the language ''section is applicable for taxable years beginning after December 31, 2001.'' is corrected to read ''section is applicable for employee taxable years beginning after December 31, 2001. For this purpose, an employer may assume that the employee taxable year is the calendar year.''.

2. On page 2251, column 3, § 1.132–9(b), paragraph (b) of A–25, last three lines of the paragraph, the language ''transit passes are readily available) is effective for taxable years beginning after December 31, 2003.'' is corrected to read ''transit passes are readily available) is applicable for employee taxable years beginning after December 31, 2003. For this purpose, an employer may assume that the employee taxable year is the calendar year.''.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–8137 Filed 4–5–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8929]

RIN 1545–AQ30

Accounting for Long-Term Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 8929) which were published in the **Federal Register** on Thursday, January 11, 2001 (66 FR 2219). The final regulations provide guidance on methods of accounting for long-term contracts.

DATES: This correction is effective January 11, 2001.

FOR FURTHER INFORMATION CONTACT: Leo F. Nolan II (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 460 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8929) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (TD 8929), which were the subject of FR Doc. 01–6, is corrected as follows:

1. On page 2222, column 1, in the preamble under the paragraph heading ''*Unique Items*'', first paragraph, last 3 lines of the paragraph, the language ''taxpayer must allocate all

customization costs to the first unit manufactured under the contract.'' is corrected to read ''taxpayer must allocate all customization costs necessary to manufacture the first unit manufactured under the contract to that first unit.''.

§ 1.460–2 [Corrected]

2. On page 2230, column 2, § 1.460–2(b)(2)(ii), second line from the bottom of the paragraph, the language ''the item must be allocated to the first'' is corrected to read ''the first unit of the item must be allocated to that first''.

3. On page 2230, column 2, § 1.460–2(c)(1), fourth line from the bottom of the column, the language ''time required to design and'' is corrected to read ''time normally required to design and''.

§ 1.460–4 [Corrected]

4. On page 2232, column 2, § 1.460–4(b)(3), line 9, the language ''the treatment of post-completion costs,'' is corrected to read ''the treatment of post-completion-year costs,''.

5. On page 2235, column 2, § 1.460–4(g), lines 2 through 5, the language ''that uses the PCM, EPCM, CCM, PCCM, or elects the 10-percent method or special AMTI method (or changes to another method of accounting with the Commissioner's consent) must apply the'' is corrected to read ''that uses the PCM, EPCM, CCM, or PCCM, or elects the 10-percent method or special AMTI method (or changes to another method of accounting with the Commissioner's consent) must apply the''.

LaNita VanDyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–8135 Filed 4–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–052G]

RIN 1218–AB90

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On December 7, 2000, OSHA issued a direct final rule amending its occupational health standard for Cotton Dust (29 CFR 1910.1043) to add cotton washed in a batch kier system to the other types of washed cotton that are partially exempt from the cotton dust standard (65 FR 76563). That rule followed the recommendation of the Task Force for Byssinosis Prevention, which studied the health effects associated with the processing and use of washed cotton. OSHA has concluded that this amendment is not controversial. It created no new requirements for industry but did provide an additional protective option for employers to achieve partial exemption from the cotton dust standard.

OSHA stated in the December 7, 2000 Federal Register Notice that it would withdraw the amendment if negative comments were received within 60 days of publication of the notice. No comments were received. Accordingly, OSHA is confirming the effective date of the amendment, which will permanently amend the Cotton Dust Standard (29 CFR 1910.1043).

DATES: The amendment is effective April 6, 2001.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), petitions for review of this amendment should be sent to the Associate Solicitor for Occupational Safety and Health; Office of the Solicitor, U.S. Department of Labor, Room S–4004; 200 Constitution Avenue, NW., Washington, DC 20210.

For additional copies of the amendment or this publication contact OSHA, Office of Publications, Room N–3101; 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1883, Fax (202) 693–2448.

FOR FURTHER INFORMATION CONTACT: Direct press inquiries to: Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Rm. N3637, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–1999, Fax (202) 693–1634. Direct technical inquiries to: Dr. Steven Bayard, Director of the Office of Risk Assessment, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3718, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2275.

SUPPLEMENTARY INFORMATION: On December 7, 2000, at 65 FR 76563, OSHA issued a direct final rule amending paragraph (n) of 29 CFR 1910.1043, the cotton dust standard. The amendment added one additional method of washing raw cotton, the batch kier method, to the washing methods covered employers may use to achieve partial exemption from the cotton dust standard. Other methods of achieving partial exemption had been added to the standard in 1985.

Washing raw cotton following certain specific protocols substantially reduces or eliminates the ability of that cotton to cause byssinosis in textile workers when the cotton is opened, spun or woven. See the December 7, 2000 **Federal Register** document for the regulatory text of the amendment and a complete discussion.

OSHA finds that this amendment is not controversial. The amendment is supported by extensive scientific research and is recommended by the Task Force for Byssinosis Prevention, formerly known as the Industry/Government/Union Task Force for Washed Cotton Evaluation. It is also supported by the National Cotton Council, the American Textile Manufacturers Institute, the National Institute for Occupational Safety and Health, the U.S. Department of Agriculture and the Union of Needletrades, Industrial and Textile Employees.

The washed cotton issue was raised when OSHA reviewed the Cotton Dust Standard pursuant to the ''Lookback Review'' requirements of Section 610 of the Regulatory Flexibility Act. OSHA conducted this review in 1998 and 1999 and issued a report in 2000. That review involved requesting comments on the Cotton Dust Standard in the **Federal Register** and holding public meetings. All comments received in the ''Lookback Review'' on extending the washed cotton exemption were supportive.

OSHA finds that it is appropriate to issue this amendment by direct final rule. The amendment provides an additional method for the textile industry to achieve a partial exemption from the cotton dust standard but does so without in any way diminishing the protections provided to workers. Textile employers may continue to comply with the standard's existing requirements if they do not find the batch kier method of washing cotton more cost-effective than compliance with the full standard or utilizing other permitted washing methods.

OSHA provided the public 60 days to comment on the amendment and stated that it would withdraw the rule if negative comments were received. No such comments were received.

OSHA also stated it would publish a **Federal Register** document to either confirm the effective date or withdraw the amendment. Because no comments have been received, OSHA is publishing this document to confirm April 6, 2001 as the effective date of this amendment.

This document has been reviewed and approved by the Department of Labor pursuant to the Regulatory Review Plan of January 20, 2001.

Authority: This document was prepared under the direction of R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4, 5, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Section 4 of the Administrative Procedure Act (5 U.S.C. 553), Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000) and 29 CFR part 1911.

Signed at Washington, DC this 4th day of April, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–8648 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Departmental Offices; Privacy Act of 1974; Implementation

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending its Privacy Act exemption rules which were published on November 21, 2000, which consolidated the regulations issued pursuant to 5 U.S.C. 552a(j) and (k) exempting one or more systems of records established on behalf of each bureau by the Department.

EFFECTIVE DATE: April 6, 2001.

ADDRESSES: Inquiries may be addressed to Department of the Treasury, Disclosure Services, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Deputy Assistant Director, Disclosure Services, (202) 622–0930.

SUPPLEMENTARY INFORMATION: On November 21, 2000, the Department of the Treasury published a final rule, at 65 FR 69865, amending its regulations issued pursuant to 5 U.S.C. 552a (j) and (k).

As noted in the rule, the Privacy Act of 1974 at subsection (k), authorizes the head of an agency to promulgate rules in accordance with the Administrative Procedure Act to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section.

Disclosure Services received a comment about the final rule which contended that paragraph (h) of the final rule did not effectively reflect that the (k)(2) exemption attaches to civil as well as criminal investigatory materials and therefore, did not fully communicate the reasons for which the (k)(2) exemption has been claimed since 1975. The comments suggested that paragraph (h) could be read to limit the availability of the (k)(2) exemption to only those records which pertain to a criminal investigation, an arrest for criminal conduct, or law enforcement activities of a criminal investigator. We agree with that assessment, and language is being added to paragraph (h) which will more fully reflect the protection afforded records relating to the enforcement of civil and administrative laws as permitted by the Act. The amendments underscore the difference between the protection of Privacy Act records collected for the enforcement of criminal laws by such Treasury bureaus as ATF and Secret Service pursuant to 5 U.S.C. 552a(j)(2), and the protection of Privacy Act records collected for non-criminal law enforcement purposes by the Comptroller of the Currency, Office of Foreign Assets Control, or other Treasury offices as permitted by 5 U.S.C. 552a(k)(2).

These regulations are being published as a final rule because the amendment does not impose any requirements on any member of the public. This amendment is the most efficient means for the Treasury Department to implement its internal requirements for complying with the Privacy Act.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, the Department of the Treasury finds good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary and finds good cause for making this rule effective on the date of publication in the **Federal Register**.

In accordance with Executive Order 12866, it has been determined that this final rule is not a ''significant regulatory action'' and, therefore, does not require a Regulatory Impact Analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Department of the Treasury has determined that this final rule will not impose new record-keeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 Subpart C of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 is amended as follows:

a. Paragraphs (h)(1)(i) and (ii) are revised,

b. Paragraph (h)(2) introductory text is amended by revising the second sentence;

c. Paragraphs (h)(2)(i)(A), (B), (C) and (ii) are revised;

d. Paragraph (h)(2)(iii) is amended by revising the second sentence;

e. Paragraph (h)(2)(iv) is revised;

f. Paragraph (h)(4) introductory text is amended by revising the third sentence;

g. Paragraph (h)(6) introductory text is amended by revising the second sentence; and

h. Paragraph (h)(6)(iii) is revised.

The revisions to § 1.36 read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(h) * * *

(1) * * *

(i) The application of this provision would impair the ability of the Department and of law enforcement agencies outside the Department of the Treasury to make effective use of information maintained by the Department. Making accountings of disclosures available to the subjects of an investigation would alert them to the fact that an agency is conducting an investigation into their illegal activities and could reveal the geographic location of the investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their

operations, by transferring their illegal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for detection or apprehension. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(ii) Providing accountings to the subjects of investigations would alert them to the fact that the Department has information regarding their illegal activities and could inform them of the general nature of that information.

* * * * *

(2) * * * The application of these provisions to the systems of records would compromise the Department's ability to utilize and provide useful tactical and strategic information to law enforcement agencies.

(i) * * *

(A) discovering the facts that would form the basis for their detection or apprehension;

(B) enabling them to destroy or alter evidence of illegal conduct that would form the basis for their detection or apprehension, and

(C) using knowledge that investigators had reason to believe that a violation of law was about to be committed, to delay the commission of the violation or commit it at a location that might not be under surveillance.

(ii) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning non-criminal acts to structure their operations so as to avoid detection or apprehension.

(iii) * * * Confidential sources and informers might refuse to provide investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. * * *

(iv) Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers or other persons who compiled information regarding the individual's illegal activities and thereby endanger the physical safety of those undercover officers, persons, or their families by exposing them to possible reprisals.

(4) * * * The application of this provision to the system of records could impair the Department's ability to collect, utilize and disseminate valuable law enforcement information.

* * * * *

(6) * * * The application of this provision to the systems of records could compromise the Department's ability to complete or continue investigations or to provide useful information to law enforcement agencies, since revealing sources for the information could:

* * * * *

(iii) Cause informers to refuse to give full information to investigators for fear of having their identities as sources disclosed.

* * * * *

Dated: March 30, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 01–8511 Filed 4–5–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–01–004]

RIN 2115–AE46

Special Local Regulations: San Diego Crew Classic

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation.

SUMMARY: This document implements 33 CFR 100.1101, Southern California annual marine events, for the San Diego Crew Classic which will be held on April 7, 2001 and April 8, 2001. The race will consist of eight oared shells, 60 feet long for club and intercollegiate rowing competitions, with approximately 3,000 participants. These regulations will be effective on Mission Bay, that portion bounded by Enchanted Cove, Fiesta Island, Pacific Passage and DeAnza Point. These Special Local Regulations are necessary to control vessel traffic in the regulated areas during the event to ensure the safety of participants and spectators.

Pursuant to 33 CFR 100.1101(b)(3), Commanding Officer, Coast Guard Activities San Diego, is designated Patrol Commander for this event; he has the authority to delegate this responsibility to any commissioned, warrant, or petty officer of the Coast Guard.

EFFECTIVE DATES: 33 CFR 100.1101 is effective from 6 a.m. (PST) until 6 p.m. (PST) on April 7, 2001, and from 6 a.m. (PDT) until 6 p.m. (PDT) on April 8, 2001. If the event concludes prior to the scheduled termination date and/or time, the Coast Guard will cease enforcement of this section and will announce that fact via Broadcast Notice to Mariners.

FOR FURTHER INFORMATION CONTACT: Petty Officer Nicole Lavorgna, U.S. Coast Guard MSO San Diego, San Diego, California; Telephone: (619) 683–6495.

SUPPLEMENTARY INFORMATION: These Special Local Regulations permit Coast Guard control of vessel traffic in order to ensure the safety of spectator and participant vessels. In accordance with the regulations in 33 CFR 100.1101, no persons or vessels shall block, anchor, or loiter in the regulated area; nor shall any person or vessel transit through the regulated area, or otherwise impeded the transit of participant or official patrol vessels in the regulated area, unless cleared for such entry by or through an official patrol vessel acting on behalf of the Patrol Commander.

Dated: March 29, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 01–8448 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–046]

Drawbridge Operation Regulations: Shaw Cove, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operating regulations governing the operation of the Amtrak Bridge, at mile 0.0, across the Shaw Cove at New London, Connecticut. Under this deviation the bridge owner need not open the bridge for vessel traffic from 10 p.m. on April 4, 2001 through 10 p.m. on April 6, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

DATES: This deviation is effective April 4, 2001, through April 6, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION:

The Amtrak Bridge, at mile 0.0, across the Shaw Cove has a vertical clearance of 3 feet at mean high water, and 6 feet at mean low water in the closed position. The existing drawbridge

operating regulations are listed at 33 CFR 117.223.

The bridge owner, the National Railroad Passenger Corporation (Amtrak), requested a temporary deviation from the drawbridge operating regulations to facilitate necessary maintenance at the bridge. This deviation from the operating regulations allows the bridge owner to need not open the Amtrak Bridge for vessel traffic from 10 p.m. on April 4, 2001 through 10 p.m. on April 6, 2001. Vessels that can pass under the bridge without an opening may do so at all times during the closed period.

The bridge owner provided less than 30 days notice to the Coast Guard of its request to deviate from the drawbridge regulations on the specified dates. However, a deviation was previously approved to perform this work March 5, 2001 through March 8, 2001; that work was cancelled due to severe weather conditions during that period. Delaying the commencement of this maintenance to require an additional 30 days notice would be unnecessary and contrary to the public interest since this work involves vital maintenance that must be performed without undue delay. Known waterway users were contacted regarding the proposed closure period; none had any objection. Furthermore, performing the repairs before the recreational boating season begins will lessen the impact and inconvenience to other mariners that use this waterway.

In accordance with 33 CFR 117.35(c) this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 29, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–8447 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK07

Signature by Mark

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulation that explains how a claimant can use a mark or a thumbprint in place of a signature. This amendment is necessary to present the existing regulation in plain language and to remove an obsolete manual provision from VA's Adjudication Procedural Manual, M21–1. This document also adds a new subpart D to part 3 along with a section setting forth the scope of applicability of subpart D.

DATES: *Effective Date:* April 6, 2001.

FOR FURTHER INFORMATION CONTACT: Candice Weaver, Consultant, Plain Language Regulations Project, or Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC, 20420, telephone 202–273–7235 and 202–273–7228 respectively.

SUPPLEMENTARY INFORMATION: VA published a proposal in the **Federal Register** on July 26, 2000 (65 FR 45952–53) to rewrite 38 CFR 3.113 in plain language. We proposed to create new § 3.2130 to restate the current regulation and to remove the obsolete requirement in the Adjudication Procedure Manual that eligibility verification reports signed by mark or thumbprint be accompanied by a separate sheet of paper certifying that the information contained on the form is true and correct. Interested persons were invited to submit written comments on or before September 25, 2000. We received one comment from the National Service Director of the Disabled American Veterans.

The comment suggested improving the proposed rule by permitting the acceptance of signatures on documents by mark or thumbprint when witnessed by accredited agents, attorneys, or service organization representatives. The commenter referred to VA's recently proposed amendment to 38 CFR 3.203 to authorize the acceptance of copies of military records certified as true and exact copies by claimants' representatives (65 FR 39580). This proposal was consistent with the partnership being developed between accredited representatives and VA for the purpose of improving claims processing. VA concurs with the commenter and has modified the proposed rule to reflect the comment. Proposed § 3.2130 has been amended by redesignating proposed paragraphs (b) and (c) as paragraphs (c) and (d) respectively, and by adding a new paragraph (b) to read ''They are witnessed by an accredited agent, attorney, or service organization representative, or''.

No comments were received with regard to the addition of subpart D or § 3.2100 on the scope of applicability of subpart D.

VA appreciates the comment submitted in response to the proposed rule which, based on the rationale set forth in the proposal and this document, is now adopted with the change explained above.

Executive Order 12866

This final rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that these final rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these final rules do not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these final rules are exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedures, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 15, 2001.

Anthony J. Principi,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.113 [Removed]

2. Section 3.113 is removed.

Subpart C—[Reserved]

3. Subpart C is added and reserved.

4. A new subpart D is added to read as follows:

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

General

Sec.
3.2100 Scope of Applicability.
3.2130 Will VA accept a signature by mark or thumbprint?

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

Authority: 38 U.S.C. 501(a), unless otherwise noted.

General

5. Section 3.2100 is added to read as follows:

§ 3.2100 Scope of Applicability.

Unless otherwise specified, the provisions of this subpart apply only to claims governed by part 3 of this title.

(Authority: 38 U.S.C. 501(a)).

6. Section 3.2130 is added to read as follows:

§ 3.2130 Will VA accept a signature by mark or thumbprint?

VA will accept signatures by mark or thumbprint if:

(a) They are witnessed by two people who sign their names and give their addresses, or

(b) They are witnessed by an accredited agent, attorney, or service organization representative, or

(c) They are certified by a notary public or any other person having the authority to administer oaths for general purposes, or

(d) They are certified by a VA employee who has been delegated authority by the Secretary under 38 CFR 2.3.

(Authority: 38 U.S.C. 5101).

[FR Doc. 01–8491 Filed 4–5–01; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ59

Claims Based on the Effects of Tobacco Products

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations governing determinations of whether disability or death is service-connected. These changes are necessary to implement a statutory amendment providing that a disability or death will not be service-connected on the basis that it resulted from injury or disease attributable to a veteran's use of tobacco products during service.

DATES: *Effective Dates:* June 10, 1998.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on February 16, 2000 (65 FR 7807–7809), we proposed to amend the adjudication regulations to provide that a disability or death will not be service-connected on the basis that it resulted from injury or disease attributable to a veteran's use of tobacco products during service. The comment period ended April 17, 2000. We received written comments from the Disabled American Veterans, the Paralyzed Veterans of America, the Veterans of Foreign Wars (Department of Maine), and four individuals. Based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule as a final rule with changes discussed below.

Statutory Requirements

Four commenters asserted that it would be wrong to preclude service members from service connection for disability or death based upon tobacco use during service because the military encouraged them to use tobacco products. One commenter asserted that the proposed regulations are unfair because the federal government has filed a lawsuit against the tobacco companies to recover the cost of smoking-related illnesses and VA should therefore provide compensation for smoking-related illnesses. We have made no changes based on these comments. The final rule merely reflects the statutory provision stating that a disability or death will not be service-connected on the basis that it resulted from injury or disease attributable to a veteran's use of tobacco products during service. (Section 9014(a) of the ''Internal Revenue Service Restructuring and Reform Act of 1998,'' Public Law 105–206, amended section 8202 of the ''Transportation Equity Act for the 21st Century,'' Public Law 105–178, by adding section 1103 to title 38, United States Code). We have no authority to change statutory provisions by regulation.

Another commenter requested that the effective date of the proposed regulations be the date of publication of the final rule rather than June 9, 1998, as set forth in the proposed rule. We have retained the effective date of June 9, 1998, because this is the effective date imposed by statute (section 8202(c) of Pub. L. No. 105–178, as amended by section 9014(b) of Pub. L. No. 105–206). Again, we have no authority to change statutory provisions by regulation.

Definition of Tobacco Products

We proposed to define ''tobacco products'' to mean ''cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.'' The term ''tobacco products'' is not defined in 38 U.S.C. 1103. We based our proposed definition on provisions in the Internal Revenue Code (26 U.S.C. 5702(c)) that define tobacco products for purposes of levying excise taxes. The proposal stated that it was appropriate to rely on the definition in 26 U.S.C. 5702(c) because a rule of statutory construction provides that statutes that are *in pari materia* (relating to the same matter) should be construed together. Under this rule, the meaning of words in one statute may be determined by referring to another statute on the same subject matter in which the same words are used. Black's Law Dictionary 794 (7th ed. 1999).

One commenter stated that the definition of ''tobacco products'' in section 3.300(a) is too broad because from the inception of the legislative proposal for 38 U.S.C. 1103, the concern was about the effects of smoking tobacco. In this regard, the commenter disagreed with VA's reliance on the definition of ''tobacco products'' in 26 U.S.C. 5702(c), stating that the rule of statutory construction regarding statutes *in pari materia* does not apply because 26 U.S.C. 5702(c) is unrelated to 38 U.S.C. 1103. In further support of his argument, the commenter noted that a heading on two VA budget proposals including this proposed legislation referred to ''Smoking-Related Disabilities,'' that the cost savings estimate in the FY 1999 budget was derived from a study regarding smoking-related diseases, and that a letter from the Office of Management and Budget (OMB) referred to the legislation as relating to ''smoking-related disabilities.''

We agree, upon further consideration, that although 26 U.S.C. 5702(c) and 38 U.S.C. 1103 deal with the same class of things, i.e., tobacco products, the statutes do not relate to the same subject

matter, i.e., excise taxes and veterans' benefits. Even so, for reasons stated below, we have retained our proposed definition in the final rule.

We believe that our definition reflects Congress' intent. The title of the statutory provision actually enacted by Congress, which proposed section 3.300 implements, is ''Special provisions relating to claims based upon effects of tobacco products,'' not ''smoking related disabilities.'' In addition, the plain language of section 1103 rules out compensation for disability or death resulting from injury or disease attributable to ''use of tobacco products,'' not smoking. While the legislative history refers to smoking, the language of section 1103 does not limit its applicability to claims for service connection based upon smoking tobacco but rather rules out service connection for injury or disease attributable to *use* of tobacco products. We do not believe that the title of the budgetary proposals which preceded enactment of section 1103 provides any guidance in this case with regard to Congress' intent. We note as well that the August 5, 1998, OMB letter to which the commenter referred states that awarding compensation for ''tobacco-related'' illnesses that begin after service based solely on a veteran's ''tobacco use'' during service goes beyond the important purposes of the veterans'' disability compensation program.

In addition, the effects of smoking tobacco about which the commenter contends the legislation was concerned are often the same as the effects of smokeless tobacco. There are two types of smokeless tobacco—snuff and chewing tobacco, and according to the National Cancer Institute, snuff and chewing tobacco contain 28 carcinogens and nicotine. NCI Fact Sheet: Questions and Answers About Smokeless Tobacco and Cancer—Updated 11/1997. Users of smokeless tobacco face an increased risk of many of the same cancers as those associated with smoking tobacco such as cancers of the oral cavity, larynx, and esophagus. NCI Fact Sheet; U.S. Dep't of Health and Human Servs., Reducing the Health Consequences of Smoking, A Report of the Surgeon General 38, 56 (1989). Further, a 1986 Surgeon General report concluded that, ''use of smokeless tobacco products can lead to nicotine dependence or addiction.'' U.S. Dep't of Health and Human Servs., The Health Consequences of Using Smokeless Tobacco, A Report of the Advisory Committee to the Surgeon General 182 (1986). If the purpose of 38 U.S.C. 1103 is, as this commenter also contends, to prohibit service connection for postservice disabilities which can be related to service only by nicotine dependence that began in service, the inclusion of smokeless tobacco is in keeping with this purpose because nicotine dependence results from use of smokeless tobacco.

Dependency and Indemnity Compensation (DIC) Claims

Proposed section 3.300(a) provides that, for claims received by VA after June 9, 1998, a disability or death will not be considered service-connected on the basis that it resulted from injury or disease attributable to the veteran's use of tobacco products during service.

One commenter stated that the proposed regulation does not make clear whether a claim for dependency and indemnity compensation (DIC) filed on or after June 9, 1998, based on a veteran's disability which was determined, prior to June 9, 1998, to be service-connected based upon the veteran's use of tobacco products during service is barred by 38 U.S.C. 1103(a). The commenter pointed out that 38 U.S.C. 1103(a) refers to injury or disease which is ''attributable,'' rather than ''attributed'' to use of tobacco products. The commenter contends that, if a veteran's service connection claim was granted prior to June 9, 1998, the veteran's disability was ''attributed'' to use of tobacco products. The commenter stated that, if the veteran dies from the disability which was service connected prior to June 9, 1998, a post-June 9, 1998, DIC claim would not be based on a disease or disability not yet ''attributed to'' tobacco use but ''attributable to'' tobacco use. Rather, according to the commenter, such a DIC claim would be based on a service-connected disability. This commenter recommended that if VA considers there to be any ambiguity in 38 U.S.C. 1103 on this point, VA should resolve this ambiguity in the veteran's favor.

DIC is payable to certain survivors of ''any veteran [who] dies after December 31, 1956, from a service-connected or compensable disability.'' 38 U.S.C. 1310(a). DIC is also payable, in the same manner as if the veteran's death were service connected, to certain survivors of a veteran ''who was in receipt of or entitled to receive * * * compensation at the time of death for a service-connected disability'' continuously rated totally disabling for an extended period immediately preceding the veteran's death. 38 U.S.C. 1318(a) and (b). Section 9014(a) of Pub. L. No. 105–206 provided that section 1103 ''shall apply with respect to *claims* received by [VA]'' after June 9, 1998. (Emphasis added). The unambiguous effect of this language is that, for a claim received after June 9, 1998, a disability or death which resulted from a disease or injury attributable to a veteran's use of tobacco products during service may not be considered service connected. *See* VAOPGCPREC 11–96; VAOPGCPREC 7–99. Section 9014(a) does not refer to facts found or adjudications made after that date, but specifies applicability to claims filed after that date. As noted above, section 1310(a) requires the death of a veteran from a ''service-connected'' disability as a prerequisite to a survivor's entitlement to DIC. Section 1318(b) requires that a veteran have been in receipt of or entitled to receive compensation for a ''service-connected'' disability at the time of death in order for a survivor to qualify for DIC under that provision. Thus, regardless of whether, for compensation purposes, service connection was legally established in a claim filed on or before June 9, 1998, for a disability resulting from the use of tobacco products during service, the effect of section 9014(a) is that such disability may not be considered service connected with respect to a DIC claim filed after that date.

With regard to the commenter's reliance on use of the word ''attributable'' rather than ''attributed'' in 38 U.S.C. 1103(a) and proposed 38 CFR 3.300(a), the word ''attributable'' is defined by Webster's Third New International Dictionary of the English Language 141 (1981), to mean ''capable of being attributed.'' Thus, under section 1103(a), if a veteran's service-connected disability or death is capable of being attributed to the use of tobacco products, service connection is precluded. A veteran's disability which was ''attributed'' to use of tobacco products during service prior to June 9, 1998, would necessarily be ''capable of being attributed'' to use of tobacco products. Therefore, use of the word ''attributable'' does not support the commenter's conclusion that a DIC claim filed after June 9, 1998, based upon a veteran's disability which was attributed to tobacco use during his or her lifetime is not precluded by section 1103(a).

Secondary Service Connection

Section 3.300(c) of the proposed regulations provides that, for claims received by VA after June 9, 1998, a disability that is proximately due to or the result of an injury or disease previously service-connected on the basis of the veteran's use of tobacco products during service will not be service-connected. We also proposed to amend section 3.310(a) concerning secondary service connection to provide

that it is subject to the provisions of section 3.300(c).

One commenter stated that section 3.300(c) of the proposed regulation violates the intent of 38 U.S.C. 1103 that claims for secondary service connection based on a disability which was service-connected due to tobacco use in service before June 10, 1998, are not barred by 38 U.S.C. 1103. The commenter stated that service connection on a secondary basis relies only on its link to the primary condition, already lawfully service-connected, without regard to the cause of the primary disability. Therefore, the commenter contends a claim for service connection for a disability which is proximately due to a disability which was service connected based on the veteran's tobacco use would not be precluded by section 1103 because the cause of the service-connected disability would not be relevant. This commenter also asserted that proposed section 3.300(b)(3), which provides that section 3.300(a) does not apply where secondary service connection is established for ischemic heart disease or other cardiovascular disease under section 3.310(b) is superfluous based upon the contention that 38 U.S.C. 1103(a) only bars claims for direct service connection, not claims for secondary service connection.

We disagree with the commenter's contention that a claim for secondary service connection is not based upon the cause of the disability which was originally service connected. As explained in the notice of proposed rulemaking, 65 FR 7807–7808 (Feb. 16, 2000), 38 CFR 3.310(a) provides for service connection of a disability not itself incurred or aggravated in service but nevertheless resulting from a disease or injury incurred or aggravated in service. Secondarily service-connected disabilities are the result of service-incurred or service-aggravated injury or disease. When a disability is proximately due to or the result of an injury or disease previously service connected on the basis of a veteran's use of tobacco products during service, the secondary condition results from a disease or injury attributable to the use of tobacco products.

The commenter cites a March 24, 1998, letter from the Acting VA General Counsel to House Veterans Affairs Committee Staff, to support the view that claims for secondary service connection are not barred by 38 U.S.C. 1103(a). The Acting General Counsel's letter stated that an Administration-proposed version of section 1103(a), which was not enacted, would have barred service connection for disabilities ''attributable in whole or in part'' to tobacco use, would have only precluded service connection on the basis that disability resulted from tobacco use and ''would not preclude establishing service connection on any other basis.'' The Acting General Counsel's letter does not provide support for the commenter's contention that VA's contemporaneous construction of its own language indicates that service connection of tobacco-related disabilities on the basis of 38 CFR 3.310(a) was not meant to be barred by 38 U.S.C. 1103(a). Apart from the fact that the letter reflects the Acting General Counsel's understanding of proposed legislative language which was not adopted by Congress, the statement is consistent with the interpretation reflected in section 3.300(b) that 38 U.S.C. 1103 was not intended to prohibit service connection on a basis independent of tobacco use in service. A proximate connection to a disability attributable to tobacco use in service would not provide such a basis.

The commenter also contends that 38 U.S.C. 1103(a) was intended to preclude claims for service connection for postservice disabilities related to service only as a result of nicotine dependence which began in service. We find no evidence of such a limitation in the legislative history of section 1103. As the Acting Secretary of Veterans Affairs explained in his February 4, 1998, testimony before the House Veterans' Affairs Committee and March 31, 1998, testimony before the Senate Veterans' Affairs Committee, section 1103 was intended to preclude service connection for disabilities arising postservice and after any applicable presumptive period if the only connection between the disease and military service is the veteran's own use of tobacco products during service. None of the legislative history cited by the commenter refers to precluding service connection for postservice disabilities only when these disabilities are due to nicotine dependence.

Finally, the commenter asserted that it would be unfair to compensate veterans who were service-connected for a tobacco-related disability before June 10, 1998, when that disability worsens over time, while at the same time denying secondary service connection for a disability proximately due to the original service-connected one. The commenter states that both are ''a natural extension'' of the service-connected disability. We disagree. A claim for an increased rating is predicated on the particular disability which was service connected. A claim for secondary service connection is based upon a new disability which is proximately due to or the result of the original service-connected disability.

Based on the above analysis, we make no change based on these comments.

Disability Becoming Manifest During Active Duty

Section 1103(b) title 38, United States Code, provides in pertinent part that service connection is not prohibited ''for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service.'' Proposed section 3.300(b)(1) similarly states that service connection is not prohibited if ''[t]he disability or death resulted from a disease or injury that is otherwise shown to have been incurred or aggravated during service.'' One commenter stated that Congress intended that the term ''otherwise shown'' in section 1103(b) include any disability or death from a disease or injury which became manifest or was aggravated during service, or manifest during a presumptive period, even if it resulted from tobacco use. The commenter recommended that VA's regulation be amended to specify this. The commenter suggested that, unless the term ''otherwise shown'' is clearly defined by the regulation, VA regional office adjudicators may misinterpret and misapply it.

Regarding the definition of ''otherwise shown,'' we believe it was intended to convey that 38 U.S.C. 1103 generally precludes establishment of service connection for a disability or death *on the basis that* it resulted from injury or disease attributable to the veteran's use of tobacco products. However, a review of the legislative history reveals an additional purpose behind 38 U.S.C. 1103(b): To permit claims where the disability manifests while on active duty, even if they are based on tobacco use. In our view, 38 U.S.C. 1103 was not intended to affect a veteran's ability to establish service connection on the basis of any legal presumption, including both statutory and regulatory presumptions. Therefore, section 3.300(b) in the proposed regulations provided that section 3.300(a) does not prohibit service connection for a disability or death if it resulted from a disease or injury otherwise shown to have been incurred or aggravated during service, or that became manifest to the required degree of disability within a period that establishes eligibility for a presumption of service connection under 38 CFR 3.307, 3.309, 3.313, or 3.316, or that may be service-connected under § 3.310(b).

We agree, however, that clarification would be helpful and have therefore

amended proposed section 3.300(b)(1) to state that, ''[f]or purposes of this section, 'otherwise shown' means that the disability or death can be service-connected on some basis other than the veteran's use of tobacco products during service, or that the disability became manifest or death occurred during service.''

Injuries From Tobacco Use

One commenter recommended that the proposed section 3.300 be amended to include a definition of the term ''injury,'' so that the regulation would not bar service connection claims based on an incidental or accidental injury arising out of tobacco use, such as a burn. The commenter noted that the ''otherwise shown'' exception in proposed section 3.300(b) permits service connection for injuries attributable to tobacco use which occur during service but nonetheless stated that the regulation invites misinterpretation without this clarification.

We believe that the clarification to section 3.300(b)(1) described above regarding the term ''otherwise shown'' is sufficient to address the commenter's point. We therefore make no other change based on this comment.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This final rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this final rule will not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 5, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.300 is added immediately under the undesignated center heading ''Ratings and Evaluations; Basic Entitlement Considerations'' to read as follows:

§ 3.300 Claims based on the effects of tobacco products.

(a) For claims received by VA after June 9, 1998, a disability or death will not be considered service-connected on the basis that it resulted from injury or disease attributable to the veteran's use of tobacco products during service. For the purpose of this section, the term ''tobacco products'' means cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

(b) The provisions of paragraph (a) of this section do not prohibit service connection if:

(1) The disability or death resulted from a disease or injury that is otherwise shown to have been incurred or aggravated during service. For purposes of this section, ''otherwise shown'' means that the disability or death can be service-connected on some basis other than the veteran's use of tobacco products during service, or that the disability became manifest or death occurred during service; or

(2) The disability or death resulted from a disease or injury that appeared to the required degree of disability within any applicable presumptive period under §§ 3.307, 3.309, 3.313, or 3.316; or

(3) Secondary service connection is established for ischemic heart disease or other cardiovascular disease under § 3.310(b).

(c) For claims for secondary service connection received by VA after June 9, 1998, a disability that is proximately due to or the result of an injury or disease previously service-connected on the basis that it is attributable to the veteran's use of tobacco products during service will not be service-connected under § 3.310(a).

(Authority: 38 U.S.C. 501(a), 1103, 1103 note)

3. In § 3.310, paragraph (a) is amended by removing ''Disability'' and adding, in its place, ''Except as provided in § 3.300(c), disability''.

[FR Doc. 01–8490 Filed 4–5–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 114–1114a; FRL–6964–1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving as an amendment to the Missouri State Implementation Plan (SIP) a revision to the Missouri construction permit rule. This revision will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to section 110 of the Clean Air Act.

DATES: This direct final rule will be effective June 5, 2001 unless EPA receives adverse comments by May 7, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser, at (913) 551–7603.

I. SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean To Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

The state of Missouri has requested that we approve an amendment to the Missouri SIP which consist of a revision to Missouri's construction permit rule, 10 CSR 10–6.060.

The rule amendment is intended to help streamline the construction permit review process in the following ways:

1. The rule establishes a fixed fee for portable plant relocations.

2. The rule establishes a negligible emission level to exempt very small projects from permit review. In general, for new construction or modification at previously permitted facilities, the rule provides that emission increases not exceeding certain levels (*e.g.*, 0.5 pounds per hour or 876 pounds per year of a regulated pollutant) are exempt unless the construction or modification would ''appreciably'' impact air quality standards, or there are citizen complaints regarding the source. Although the term ''appreciably'' is not defined, EPA expects the state to review sources below these de minimis levels if the available information indicates that the construction or modification could result in a quantifiable impact on air quality standards, or quantifiable exceedance of a standard.

3. Finally, the revision clarifies when particular reviews require analysis of air quality impacts, establishing cutoffs for nonmajor sources at the EPA significance levels (*e.g.*, 40 tons per year for sulfur dioxide), below which sources are not required to perform modeling, unless they are expected to have significant air quality impacts. The exemption from the air quality analysis applies only to sources which are not major under the state's prevention of significant deterioration and nonattainment area major new source review (''Part D'') program.

The revised rule changes subsections (1)(D), (1)(E), (5)(D), (6)(B), (9)(D), (10)(A), (12)(A), (12)(D), (12)(J), and removes the application forms from the rule. The state rule revisions were effective on November 30, 1999.

Further discussion and background information is contained in the technical support document (TSD) prepared for this action, which is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely

approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 5, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 7, 2001.

William Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
10–6.060	Construction Permits Required	11/30/99	4/6/01	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
*	*	*	*	*

* * * * *

[FR Doc. 01–8479 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301111; FRL–6773–7]

RIN 2070–AB78

Ethametsulfuron Methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of ethametsulfuron methyl (methyl 2- ((((4-ethoxy-6- (methylamino)-1,3,5- triazin-2-yl) amino) carbonyl) amino) sulfonyl) benzoate) in or on canola, crambe, and rapeseed. E.I. DuPont de Nemours and Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective April 6, 2001. Objections and requests for hearings, identified by docket control number OPP–301111, must be received by EPA on or before June 5, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301111 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311	Crop production Animal production Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180._00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301111. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 17, 1997 (62 FR 66083) (FRL–5759–1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 1F4032) for tolerance by E.I. du Pont de Nemours and Company, Barley Mill Plaza, Walker's Mill Bldg. 37, Wilmington, DE 19880–0038. This notice included a summary of the petition prepared by E.I. du Pont de Nemours and Company, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide ethametsulfuron methyl (methyl 2- ((((4-ethoxy-6- (methylamino)-1,3,5- triazin-2-yl) amino) carbonyl) amino) sulfonyl) benzoate) in or on canola seed at 0.1 part per million (ppm). During the course of the review, EPA determined that the available residue data supported tolerances of 0.02 ppm in or on the raw agricultural commodities canola, crambe, and rapeseed at 0.02 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate

exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of ethametsulfuron methyl on canola, crambe, and rapeseed at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by ethametsulfuron methyl are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents - rats	NOAEL = 365/453 mg/kg/day (m/f) highest dose tested (HDT) LOAEL = not determined, supplementary due to lack of toxic response (inadequate dose levels)
	mice	NOAEL = >686/916 mg/kg/day (m/f) HDT LOAEL = not determined
870.3150	90-Day oral toxicity in nonrodents - dogs	NOAEL = >390/383 mg/kg/day (m/f) LOAEL = not determined; lack of a toxic response (inadequate dose levels)
870.3700a	Prenatal developmental in rodents - rats	Maternal NOAEL = 1,000 mg/kg/day LOAEL = 4,000 mg/kg/day based on decreased body weight and decreased food consumption. Developmental NOAEL = 1,000 mg/kg/day LOAEL = 4,000 mg/kg/day based on reduced fetal body weight gain, increased skeletal variations
870.3700b	Prenatal developmental in nonrodents - rabbits	Maternal NOAEL = 250 mg/kg/day LOAEL = 1,000 mg/kg/day based on increased relative liver weight. Developmental NOAEL = 1,000 mg/kg/day LOAEL = 4,000 mg/kg/day based on increased resorptions (early fetal death), decreased litter size
870.3800	Reproduction and fertility effects	Parental/systemic NOAEL = 395/449 (m/f) mg/kg/day LOAEL = 1,582/1,817 (m/f) mg/kg/day based on reduced body weight and body weight gain in parent and Fla males and females Reproductive NOAEL = 1582/817 (m/f) mg/kg/day LOAEL = not determined
870.4100a	Chronic toxicity rodents	NOAEL = 210/267 mg/kg/day LOAEL = not determined
870.4100b	Chronic toxicity dogs	NOAEL = 87.3/386.9 (m/f) mg/kg/day LOAEL = 478/483 (m/f) mg/kg/day based on reduced body weight gain, and food efficiency, decrease in mean serum values
870.4200	Carcinogenicity rats	NOAEL = 210/267 mg/kg/day LOAEL = not determined. (no) evidence of carcinogenicity
870.4300	Carcinogenicity mice	NOAEL = 705/930 mg/kg/day LOAEL = not determined. (no) evidence of carcinogenicity
870.5300	Gene mutation	*In vitro* gene mutation in CHO cells. Negative for mutagenicity
870.5395	Gene mutation	*In vivo* micronucleus assay in mice did not induce bone marrow toxicity
870.5300	Gene mutation	*In vivo* rat bone marrow assay did not induce bone marrow did not induce a clastogenic response
870.5550	Gene mutation	*In vitro* UDS assay did not induce a genotoxic effect
870.5100	Gene mutation	*S. typhimurium*/mammalian microsome assay did not induce a genotoxic effect

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics	Submitted study unacceptable by current guidelines. New study required as a condition of registration
870.7600	Dermal penetration	No studies available. Not required since a dermal risk assessment is not required

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10x to account for interspecies differences and 10x for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10x to account for interspecies differences and 10x for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for ethametsulfuron methyl used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ETHAMETSULFURON METHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary	A dose and endpoint were not selected because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose).		
Chronic dietary	NOAEL = 449 mg/kg/day UF = 100x	FQPA SF = 1x cPAD = 4.5 mg/kg/day	2-Generation reproduction study in rats.
	Chronic RfD = 4.5 mg/kg/day		LOAEL = 1817 mg/kg/day based on decreased body wt. and body wt. gain in parental animals and F1a and F1b generations.
Short-, intermediate and long-term dermal	No endpoints were selected for exposure scenarios by the dermal route, since the dermal toxicity study in rats was waived based on lack of systemic toxicity in oral toxicity studies, thereby making the potential for risk negligible.		
Inhalation (any time period)	No endpoint was selected, based on the low toxicity, use pattern and method of application, there is no concern for potential exposure/risk via this route.		
Cancer (oral, dermal, inhalation)	The carcinogenic potential of ethametsulfuron could not be evaluated since the highest dose tested in mice and rats did not elicit systemic toxicity. However, EPA noted that ethametsulfuron, is structurally-related to other sulfonylurea herbicides and does not show evidence of carcinogenicity or mutagenicity. Therefore, a quantitative risk assessment is not warranted.		

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. A time-limited tolerance has been established for the residues of (methyl 2- ((((4-ethoxy-6-(methylamino)-1,3,5- triazin-2-yl) amino) carbonyl) amino) sulfonyl) benzoate), in or on canola in connection with FIFRA section 18 emergency programs authorized in the 2000 growing season. Risk assessments were conducted by EPA to assess dietary exposures from ethametsulfuron methyl in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. A Dietary Exposure Evaluation Model (DEEM) acute exposure analysis was not performed since an appropriate endpoint attributable to a single exposure was not selected.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 –nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: For chronic risk assessments, residue estimates for foods or food-forms of interest are multiplied by the average consumption estimate of each food/food-form of each population subgroup. Chronic exposure estimates are expressed in milligram/kilogram body weight/day (mg/kg bw/day) and as a percent of the cPAD. A DEEM chronic exposure analysis was performed using the proposed tolerance level residues (0.02 ppm) and 100% crop treated to estimate the exposure for the general population and subgroups of interest. The percent cPAD that would be above EPA's level of concern would be 100%. Percent crop treated (PCT) and/or anticipated residues were not used. Based on the results of this analysis, exposure to ethametsulfuron methyl from food will utilize <1% of the cPAD for all population groups.

iii. *Cancer*. A DEEM cancer risk assessment is not performed because ethametsulfuron methyl is not expected to pose a cancer concern.

2. *Dietary exposure from drinking water*. The Agency will use monitoring data to assess exposures for a comprehensive dietary exposure and risk assessment when available. Because ethametsulfuron methyl is not registered for use, drinking water monitoring data for use in the dietary exposure and risk assessment are not available. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on modeling taking into account data on the physical characteristics of ethametsulfuron methyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentration in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/ EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and from residential uses. Since DWLOCs address total aggregate exposure to ethametsulfuron methyl, they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models, the EECs of ethametsulfuron methyl for acute exposures are estimated to be 0.48 parts per billion (ppb) for surface water and 0.11 ppb for ground water. The EECs for chronic exposures are estimated to be 0.32 ppb for surface water and 0.11 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Ethametsulfuron methyl is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether ethametsulfuron methyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, ethametsulfuron methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that ethametsulfuron has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments

either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity*. EPA determined that the available Agency Guideline studies indicated no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to ethametsulfuron. In the prenatal developmental toxicity studies in rats and rabbits as well as the 2-generation reproduction study in rats, toxicity to the fetuses/offspring, when observed, occurred at equivalent or higher doses than in the maternal/parental animals.

iii. *Conclusion*. The toxicity data base for ethametsulfuron methyl is complete except for a general metabolism study. The current metabolism study is not acceptable by current guidelines. A guideline study is required as a condition of the registration. The exposure data are complete or estimated based on data that reasonably accounts for potential exposures. The FQPA Safety Factor Committee recommended that the 10x factor for protection of infants and children (as required by FQPA) be removed since: (1) The toxicology data base is complete except for the rat metabolism study. Requirements for developmental toxicity studies and reprodction studies are satisfied; (2) there is no indication of increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity data; (3) unrefined dietary exposure estimates are protective since they will exaggerate dietary exposure estimates; (4) EFED will model ground and surface source drinking water exposure assessments, resulting in estimates that are conservative upper-bound concentrations; and (5) there are currently no registered residential uses for ethametsulfuron and therefore, non-dietary exposure to infants and children is not expected.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. An acute RfD (aRfD) was not established because a dose and endpoint attributable to a single exposure were not identified from the available oral toxicity studies, including maternal toxicity in the developmental toxicity studies.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to ethametsulfuron methyl from food will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for all infants (<1 year old) and <1% of the cPAD for children (1-6 years old). There are no residential uses for ethametsulfuron methyl that result in chronic residential exposure to ethametsulfuron methyl. In addition, there is potential for chronic dietary exposure to ethametsulfuron methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO ETHAMETSULFURON METHYL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	4.5	<1	0.32	0.11	160,000
Females 13+	4.5	<1	0.32	0.11	140,000
Infants all (<1 year old)	4.5	<1	0.32	0.11	45,000
Children (1-6 years old)	4.5	<1	0.32	0.11	45,000

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Ethametsulfuron methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water

(considered to be a background exposure level).

Ethametsulfuron methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. A cancer aggregate risk assessment was not performed because ethametsulfuron methyl is not expected to pose a cancer concern.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to ethametsulfuron methy residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

There is an analytical method available using high performance liquid chromatography (HPLC) with a photoconductivity detector that has been validated by the petitioner to gather residue data at the 0.02 ppm tolerance. EPA recommends this method be used by analysts having access to a working photoconductivity conductor. An improved analytical method is being validated by EPA's Analytical Chemistry Branch. Prior to publication in PAM II, and upon request, the existing HPLC analytical method for canola commodities will be available from the Analytical Chemistry Branch (ACB), Biological Economic Analysis Division (BEAD) (7503C), Environmental Science Center, 701 Mapes Road, Fort George G. Meade, MD 20755–5350; contact Francis D. Griffith, Jr., telephone (403) 305–2905, e-mail griffith.francis@epa.gov. The analytical standards for this method are also available from EPA's National Pesticide Standard Repository at the same location.

B. International Residue Limits

There are no Codex, Canadian, and Mexican maximum residue levels (MRLs). However, ethametsulfuron methyl is registered in Canada on canola/rape and mustard with a default value of 0.1 ppm, with no published MRL. The use pattern and residue data support a U.S. tolerances of 0.02 on canola, crambe, and rapeseed.

C. Conditions

A general metabolism study performed by current guidelines (870.7485) is being required as a condition of the registration.

V. Conclusion

Therefore, the tolerances are established for residues of ethametsulfuron methyl (methyl 2- ((((4-ethoxy-6- (methylamino)-1,3,5- triazin-2-yl) amino) carbonyl) amino) sulfonyl) benzoate), in or on canola, crambe, and rapeseed at 0.02 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301111 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 5, 2001.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301111, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-

docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 21, 2001.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.563 is amended by adding paragraph (a) to read as follows:

§ 180.563 Ethametsulfuron methyl; tolerances for residues.

(a) *General.* A tolerance is established for residues of ethametsulfuron methyl (methyl 2- ((((4-ethoxy-6-(methylamino)-1,3,5- triazin-2-yl) amino) carbonyl) amino) sulfonyl) benzoate) in or on the following raw agricultural commodities.

Commodity	Parts per million
Canola seed	0.02
Crambe	0.02
Rapeseed	0.02

* * * * *

[FR Doc. 01–8484 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 99–5682]

RIN 2127–AG48

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for reconsideration.

SUMMARY: This notice announces the denial of petitions for reconsideration of the agency's final rule deleting the provision in Standard No. 209, Seat belt assemblies, requiring that the lap belt portion of a safety belt system ''shall be designed to remain on the pelvis under all conditions.''

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. John Lee, Office of Crashworthiness Standards, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2264, facsimile (202) 366–4329, electronic mail jlee@nhtsa.dot.gov.

For legal issues: Mr. Otto G. Matheke, III, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail omatheke@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard No. 209, Seat belt assemblies, specifies requirements for seat belt assemblies, including the pelvic restraint (i.e., lap belt) and the upper torso restraint (i.e., shoulder belt). Other requirements address the release mechanism, attachment hardware, adjustment, webbing, strap, marking and other informational instructions. NHTSA adopted Standard No. 209 in 1967 as one of the initial Federal motor vehicle safety standards (32 FR 2408, February 3, 1967).[1]

From the time the Standard was issued until the issuance of the final rule deleting the provision, S4.1(b) contained the following requirement:

A seat belt assembly shall provide pelvic restraint whether or not upper torso restraint is provided, and the pelvic restraint shall be designed to remain on the pelvis under all conditions, including collision or roll-over of the motor vehicle. Pelvic restraint of a Type 2 seat belt assembly that can be used without upper torso restraint shall comply with requirement for Type 1 seat belt assembly in S4.1 to S4.4.

Although the brief preamble of the notice establishing the standard and paragraph S4.1(b) in 1967 did not discuss the purpose of that paragraph, NHTSA subsequently indicated that it regarded the purpose of S4.1(b) to be the reduction of the likelihood of restrained occupants sliding forward and under a fastened safety belt during a crash (referred to as submarining). It is important that the lap belt remains on the pelvis so that the crash forces transferred by a lap belt are imposed on the strong, bony pelvis, instead of the more vulnerable abdominal region.

In a notice of proposed rulemaking (NPRM) published on July 7, 1997 (62 FR 36251),[2] NHTSA proposed to delete S4.1(b). NHTSA tentatively concluded that S4.1(b) was unclear and should either be clarified or deleted. The agency explained that it was unclear how it would objectively determine that a lap belt complied with the Standard and was in fact ''designed'' to remain on the pelvis. NHTSA raised the issue of whether a lap belt's failure to remain on the pelvis during a crash could be sufficient to establish that the belt was not ''designed'' to remain on the pelvis under all conditions. In addition, NHTSA noted that the meaning of the words, ''remain on the pelvis,'' was unclear. The agency also stated its belief that Standard No. 208, other provisions in Standard No. 209, and Standard No. 210 contained more specific requirements that collectively have the effect of requiring effective pelvic restraint and thereby reducing the likelihood of occupants submarining during a crash. NHTSA tentatively concluded that the requirement appeared to be unnecessary and unenforceable and was an appropriate candidate for deletion.

NHTSA received nine comments in response to the NPRM. General Motors Corporation (GM), Mercedes Benz, the Automotive Occupant Restraint Council (AORC), the Association of International Automobile Manufacturers (AIAM), Chrysler Corporation (Chrysler), Ford Motor Company (Ford), and Volkswagen of America, Inc. (VW) all favored the agency's proposal to delete S4.1(b) from Standard No. 209. Advocates for Highway Safety (Advocates) and the National Transportation Safety Board (NTSB) opposed it.

In a final rule published in the **Federal Register** on May 19, 1999 (64 FR 27203, DOT docket #99–5682–1), NHTSA deleted S4.1(b) from Standard No. 209. As the agency explained at that time, NHTSA concluded that S4.1(b) is unnecessary because subsequently adopted provisions in Standard No. 208 and Standard No. 210, and other provisions in Standard No. 209, contained more specific requirements that collectively achieved the same objective for a broad category of vehicle occupants. These provisions regulating belt angle, adjustment, fit, and the amount of slack in the belt were viewed by NHTSA as adequately addressing the likelihood of occupant submarining. In particular, the agency determined that Standards No. 208 and 209 address seat belt fit and adjustment by requiring seat belts to fit a wide range of vehicle occupants, thereby assuring that belts are likely to be correctly located on an occupant. Further, NHTSA also observed that it amended S4.3.1 of Standard No. 210 in 1990 to increase the minimum lap belt angle from 20 degrees to 30 degrees. (55 FR 17970, April 30, 1990), thereby reducing the potential for occupant submarining. The agency also noted that the potential for occupant submarining is also affected by the amount of slack in a lap belt and that S4.3(j) of Standard No. 209, promulgated after S4.1(b), lowered the risk of occupant submarining by controlling the amount of slack that may be introduced into the belt.

The agency also concluded that S4.1(b) was essentially unenforceable. The agency did not have a test procedure for evaluating compliance with S4.1(b), and did not believe that a repeatable, practicable test could be devised to determine compliance with the provision. NHTSA determined that no single test could be devised to determine if a belt was designed to stay on the pelvis under all conditions.

II. Petitions for Reconsideration

The agency received one petition for reconsideration and two comments regarding the May 19,1999 final rule. Syson-Hille & Associates (Syson), a consulting group, filed its petition on June 22, 1999. Ms. Kimberly Abood

[1] Standard No. 209 was adopted from a Department of Commerce standard (32 FR 2408, February 3, 1967), which was adopted from a Society of Automotive Engineers (SAE) standard. (29 FR 16973, December 11, 1964).

[2] The NPRM was issued in response to a May 24, 1996 petition for rulemaking from the Association of International Automobile Manufacturers, Inc. (AIAM). AIAM petitioned NHTSA to delete S4.1(b) of Standard No. 209. AIAM stated that the phrase ''designed to remain on the pelvis under all conditions'' was redundant of other, more specific and more stringent requirements in Standard No. 208, Occupant Crash Protection, Standard No. 209, and Standard No. 210, Seat Belt Assembly Anchorages, which already provide specific requirements that affect pelvic restraint.

submitted comments opposing the final rule on July 7, 1999 and Mr. Chad Cloud filed similar comments on November 8, 1999.[3] All were concerned that the deletion of S4.1(b) would increase submarining injuries. In addition, Syson believed that the deletion of S4.1(b) would also have an impact on the performance of belt latches in rollovers, as the requirement that a belt remain over the pelvis implicitly demands that a belt remain fastened at all times.

Syson disagreed with NHTSA's determination that other provisions in Standards No. 208, No. 209 and No. 210 would provide adequate assurance that submarining would not occur in a crash. Syson argued that the parameters affected by the foregoing provisions (i.e., lap belt angles, shoulder belt anchorages and junction to centerline distance) addressed only three of 20 conditions that Syson considers to be important in submarining. Syson further claimed that the current agency standards applicable to lap belt angles, shoulder belt anchorage locations, and junction to centerline distance addressed these factors in the most general sense without adequate assurances of performance. Syson urged that NHTSA make a submarining test specification part of the FMVSS No. 208 crash test procedures and cautioned the agency, stating that the elimination of S4.1(b) imposes a safety cost and offers no benefits. Syson also stated its belief that the elimination of S4.1(b) increased risks to occupants in all collisions, not just frontal impacts. In Syson's view, S4.1(b)'s command that the belt be designed to remain on the pelvis under all conditions required that the belt remain on an occupant's pelvis in any and all impacts and events. Because of this, Syson believes that S4.1(b) not only served to ensure that belts remain properly located, but also required that belts always remain fastened as an unfastened belt will not remain on the pelvis. In particular, Syson alleged that certain buckle designs are likely to unlatch in side impacts or rollovers.

Ms. Kimberly Abood submitted comments indicating her concern about the deletion of S4.1(b) from Standard No. 209. In Ms. Abood's view, the original requirement that the lap belt be designed to remain on the pelvis was inserted in the Standard for good reason and should not be deleted for the convenience of the auto industry. Ms. Abood related how she had been in a minor crash, but had sustained extremely severe injuries when she submarined under her lap belt. Ms. Abood stated her belief that automakers will not test for submarining if S4.1(b) is eliminated and the same manufacturers will be able to cut costs without being held accountable for their designs.

Mr. Chad Cloud submitted comments similar to those submitted by Ms. Abood. Mr. Cloud indicated that his son suffered severe spinal injuries and resulting paralysis after submarining under a rear seat lap belt in a 1988 Plymouth Horizon involved in a crash. Mr. Cloud argued that his son's injuries were caused by the fact that the 1988 Horizon did not comply with S4.1(b) of Standard No. 209. Because of this experience, Mr. Cloud urged NHTSA not to modify the Standard.

III. Response To Petitions for Reconsideration

In response to the petitions for reconsideration the agency has reviewed its decision to delete S4.1(b) from Standard No. 209. For the reasons stated below, the agency is affirming its earlier decision.

Standard No. 209 was among the initial set of safety standards issued by the agency. The section at issue here, S4.1(b), dates from the original issuance of Standard No. 209 in 1967. The agency notes that both automobile safety and NHTSA's own safety standards have evolved considerably since that time. As the agency noted in the preamble accompanying the final rule deleting S4.1(b), upgrades to a number of standards that have occurred since the adoption of Standard No. 209 now provide adequate, if not superior, safety benefits beyond those that may have been realized through the adoption of S4.1(b).

The agency also notes that, for a number of reasons, compliance with S4.1(b) could neither be measured nor enforced. S4.1(b) contained the general command that a seat belt ''shall be designed to remain on the pelvis under all conditions * * *.'' The particular language of S4.1(b), which would have required examination of whether a configuration was ''designed to'' achieve a result rather than measuring actual performance, made the development of a practical compliance test unlikely. Assessing the performance of a device under ''all conditions,'' is not practicable.

Elimination of the subjective requirement that a belt must have a specific design goal and the requirement that it meet this goal under all conditions would reduce the requirement to a general command that the belt remain on the pelvis. Unless limited to some type of crash, this command would be the equivalent of ''under all conditions.'' As the risk of submarining is greatest in a frontal impact, the logical choice would be to specify that the belt remain on the pelvis in a frontal crash. However, as the agency noted when it issued the final rule, NHTSA has concluded that existing provisions in other standards, particularly Standard No. 210, Standard No. 209 and Standard No. 208, adequately protect against this risk.

The agency concedes that, in theory, S4.1(b) could have been modified to include a practicable test procedure applicable to some crash conditions. However, as noted above and in the preamble to the May 19, 1999 final rule, NHTSA believes that any safety need that might have been addressed by such a test has been met by other provisions in existing safety standards. In particular, the agency notes that the minimum lap belt angle requirements now found in Standard No. 210, reduce the risk of submarining.[4]

Mr. Chad Cloud and Ms. Kimberly Abood both urged NHTSA to reconsider its decision to delete S4.1(b) on the basis that the provision operated to prevent manufacturers from employing belt systems which might allow occupants to ''submarine'' under a lap belt in a crash and suffer abdominal injuries as a result of the lap belt moving off the pelvis and onto the abdomen. As Ms. Abood and Mr. Cloud pointed out, a lap belt may inflict serious or fatal injuries if such submarining occurs. NHTSA is aware of this risk, and has concluded that deletion of S4.1(b) does not increase it.

Submarining occurs when an occupant moves forward and underneath a lap belt in a frontal crash. A number of measures instituted by the agency since the adoption of S4.1(b) require manufacturers to use seat belts minimize the risk of submarining in frontal crashes. For example, Standard No. 208 was modified in 1985 through the issuance of a final rule requiring improvements in seat belt comfort and fit (50 FR 46056, November 6, 1985). Later amendments to that standard required dynamic testing of seat belts in passenger cars (51 FR 9800, March 21, 1986) and in light trucks (52 FR 44898, November 23, 1987). In November 1989, the risk of injuries from submarining was significantly reduced by the

[3] The comments filed by Mr. Cloud and Ms. Abood did not meet the formal requirements for petitions for reconsideration and were filed after the deadline for such petitions had passed. Nonetheless, the agency is treating these comments as if they were proper petitions.

[4] NHTSA test data have shown that the occurrence of submarining is diminished as lap belt angles increase (''Rear Seat Submarining Investigation,'' DOT HS 807–347, May 1988).

issuance of a requirement that lap and shoulder belts be provided at all front facing outboard seating positions in passenger cars, light trucks and multipurpose vehicles (54 FR 46257, November 2, 1989). An amendment to Standard No. 210 increasing the minimum lap belt angle was issued by NHTSA in April 1990 (55 FR 17970, April 30, 1990).

Neither Mr. Cloud or Ms. Abood submitted any data with their comments other than to provide an account of the seat-belt related injuries suffered by themselves or a family member in individual crashes. In both instances, the injuries appear to have occurred in older vehicles designed and built before the effective dates of the amendments discussed above. NHTSA believes that, in both cases, the presence of shoulder belts in addition to lap belts, the modifications to the minimum lap belt angle, and the other changes to Standard No. 208 might very well have been sufficient to prevent or reduce the severity of the injuries described in the comments.

As is the case with Mr. Cloud and Ms. Abood, Syson did not submit any data supporting its contention that the agency should reconsider its decision to delete S4.1(b). Syson's principal argument is that the amendments to Standards No. 208 and 210 that were cited by the agency as providing, in the aggregate, superior protection than that offered by S4.1(b), were too general and do not sufficiently address submarining. Syson further stated that it had identified 20 variables that it viewed as affecting submarining and that, at best, the measures adopted by NHTSA subsequent to the promulgation of S4.1.(b) addressed only three of those variables.

NHTSA does not agree. The amendments cited by the agency, particularly those relating to lap belt angles and requiring shoulder belts, reduce the risks of submarining to a far greater extent than the requirements of S4.1(b). Furthermore, an examination of the 20 factors submitted by Syson indicates that these factors are either addressed by existing standards, are variables that could not reasonably be controlled by regulation, or are variables particular to a specific user or crash. At least four of the factors noted by Syson (belt angles, belt elongation, anchorage location and retractor locking) are subject to existing regulations. Others, such as vehicle pitch, vehicle deceleration pulse, seat back position, the occupant's seated position, friction between occupant and belt, friction between occupant and seat, and the occupant's clothing are variables unique to an individual crash.

Syson also urged the agency to adopt additional tests and modify the Hybrid III dummy to address submarining. Again, in light of the amendments to Standards No. 208 and 210, NHTSA does not believe these steps are necessary. Lastly, Syson argues that S4.1(b)'s requirement that the belt remain on the pelvis provides an additional safeguard against seat belt buckle failure and unlatching. The agency notes that Standard No. 209 already contains a number of requirements that require that seat belt latches perform as they should. In regard to Syson's claim that certain buckle designs may release in side impacts and rollovers, the agency notes that its Office of Defects Investigation (ODI) completed an extensive investigation involving the alleged problem of inadvertent unlatching of the buckle of certain designs of safety belts. (The investigation is documented in a 1992 Vehicle Research and Test Center test report titled, ''Tests Regarding Alleged Inertial Unlatching of Safety Belt Buckles.'' This document may be obtained from NHTSA's Technical Information Services office.)

IV. Conclusion

For the reasons provided above, the petitions are denied.

Issued on: March 30, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–8443 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 80

RIN 1018–AD83

Federal Aid in Sport Fish Restoration Program; Participation by the District of Columbia and U.S. Insular Territories and Commonwealths

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will conform our regulations for the Federal Aid in Sport Fish Restoration Program to a recently enacted law by letting the States spend up to 15 percent (not just 10 percent as previously allowed) of their Federal Aid funds on aquatic education and outreach and communications. Because their circumstances are different, we will also let the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa spend in excess of 15 percent for these purposes, with the approval of the appropriate Fish and Wildlife Service Regional Director. We are also defining existing requirements for the collection of information required by the Paperwork Reduction Act and the Office of Management and Budget's implementing regulation.

DATES: This rule is effective on May 7, 2001.

ADDRESSES: The administrative record for this rule is available for viewing Monday through Friday, 8 a.m. to 4 p.m., in the Division of Federal Aid, 4401 North Fairfax Drive, Suite 140, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Kris E. LaMontagne, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service. Telephone: (703) 358–2156.

SUPPLEMENTARY INFORMATION:

Background

Through the Federal Aid in Sport Fish Restoration Program, the Service disburses funds to States (including the District of Columbia and the U.S. insular territories and Commonwealths) to restore and manage the Nation's fishery resources. The States use the funds to fund fisheries research, surveys, and management; purchase and restore habitat; operate hatcheries; build boat access; and provide aquatic education and outreach and communications programs.

The Federal Aid in Sport Fish Restoration Act (Act), 16 U.S.C. 777 *et seq.*, authorizes the program. It was enacted in 1950, and carried out by regulations in 50 CFR part 80, ''Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.'' The Service derives funds for the Program from excise and import taxes on fishing tackle and motorboat fuel. The manufacturer or importer collects the tax and pays it to the U.S. Department of the Treasury, who transfers the money to the Service for distribution to the States.

Congress has amended the Act several times. The Transportation Equity Act for the 21st Century (Public Law 105–178), passed in 1998, commonly called TEA–21, increased from 10 percent to 15 percent the maximum allowable expenditure of Sport Fish Restoration apportioned dollars for aquatic education, which now also applies to

outreach and communications projects. Section 777g(c) of the Act states, ''(E)ach State may use not to exceed 15 percent of the funds apportioned to it under Section 777c of this title to pay up to 75 percent of the costs of an aquatic resource education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms.'' In addition, section 777k of the Act states in part that ''(T)he Secretary of the Interior (Secretary) is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, the Governor of Guam, the Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands, and the Governor of the American Virgin Islands, in the conduct of fish restoration and management projects, as defined in section 777a of this title, upon such terms and conditions as he shall deem fair, just, and equitable * * *''

On June 9, 2000, the Service published a proposed rule in the **Federal Register** (65 FR 36653) to amend 50 CFR part 80 to carry out TEA–21. Specifically we proposed to amend § 80.15 to raise the amount that States may expend for aquatic education and outreach and communications to 15 percent. We also proposed to allow the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa to spend a higher percentage of their funds for this purpose, as determined by the appropriate Regional Director. We also proposed to rewrite 50 CFR 80.15 in plain language and to add a new 50 CFR 80.27 concerning information collection requirements. We received no comments during the 60-day comment period, which ended August 8, 2000.

Required Determinations

We have examined this action under the Paperwork Reduction Act (PRA) of 1995 and found it to contain no new or revised information collection requirements. We currently have approval for Grant Agreements and Amendments (1018–0049), Part 1 Certification and Part 2 Summary of Hunting and Fishing Licenses (1018–0007), and The Federal Aid Grant Application Booklet (1018–0109). However, a new section, 50 CFR 80.27, is added to fulfill the public notice requirements of the PRA for existing approved information collection requirements contained in part 80.

The Office of Management and Budget determined this document is not a significant regulatory action under Executive Order 12866, Regulatory Planning and Review.

This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. Neither a cost or benefit economic analysis is required because of the low dollar amount of this proposed rule change. This change will simply redistribute existing money. The District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa (but not Puerto Rico) each receives an annual apportionment of one-third of one percent of the Sport Fish Restoration account. Over the last 10 years, this amount has ranged from about $580,000 to $910,000, with an average of approximately $720,000 per year. In 2000, the apportionment was $803,128, which permitted them to each spend $120,469 (15 percent) for aquatic education and outreach and communications. Puerto Rico, which receives 1 percent, has a 10-year average of $2,164,533, with a 2000 apportionment of $2,409,383, and currently has an aquatic education and outreach and communications spending limit of $361,407. The dollar amounts of this rule will not have a major effect on the affected economies, since the money would have been obligated under programs other than aquatic education and outreach and communications without this change.

This rule will not create inconsistencies with other agencies' actions or materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule increases the allowable spending levels of Sport Fish Restoration dollars for aquatic education and outreach and communications, not the total apportionment for the recipients.

This rule will not raise novel legal or policy issues. The 15-percent limit applying to States was done through congressional action. The raised spending authority for the District of Columbia and the U.S. Insular Territories and Commonwealths simply recognizes the different situations that these recipients have concerning opportunities for aquatic education and outreach and communications projects. The Act authorizes cooperation with the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). This action affects, by giving them more flexibility, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa. These entities govern populations of more than 50,000, and, therefore, they are not small entities as defined in 5 U.S.C. 601. The change simply allows for the redistribution of existing funds.

Additional funding for aquatic education and outreach and communications will benefit local residents without appreciable losses in management capability. No discernible effects on product prices or other economic effects are associated with this rule.

We have determined and now certify pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rulemaking will not impose a cost of $100 million or more in any given year on local, State, or territorial governments or private entities.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, territorial, or local government agencies, or geographic regions; and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule change allows redirection of certain monies within a total apportionment. No added or reduced total funding is involved in this change.

We have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule gives the recipients (the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa) more self-determination by allowing

them more flexibility in their spending decisions.

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM 2, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required due to the categorical exclusion (1.10) for administrative changes.

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule has no taking of personal property implications; it is restricted to grants administration for government entities.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, although generally not applicable, we are coordinating with federally recognized tribes on a Government-to-Government basis when needed.

List of Subjects in 50 CFR Part 80

Fish, Grant programs—natural resources, Reporting and recordkeeping requirements, Signs and symbols, Wildlife.

Accordingly, we amend part 80, Subchapter F of chapter I, title 50 of the Code of Federal Regulations as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: 16 U.S.C. 777i; 16 U.S.C. 669i; 18 U.S.C. 701.

2. Revise § 80.15 to read as follows:

§ 80.15 Allowable costs.

(a) *What are allowable costs?* Allowable costs are costs that are necessary and reasonable for accomplishment of approved project purposes and are in accordance with the cost principles of OMB Circular A–87 (For availability, see 5 CFR 1310.3.).

(b) *What is required to determine the allowability of costs?* Source documents or other records as necessary must support all costs to substantiate the application of funds. Such documentation and records are subject to review by the Service and, if necessary, the Secretary to determine the allowability of costs.

(c) *Are costs allowable if they are incurred prior to the date of the grant agreement?* Costs incurred prior to the effective date of the grant agreement are allowable only when specifically provided for in the grant agreement.

(d) *How are costs allocated in multipurpose projects or facilities?* Projects or facilities designed to include purposes other than those eligible under either the Sport Fish Restoration or Wildlife Restoration Acts must provide for the allocation of costs among the various purposes. The method used to allocate costs must produce an equitable distribution of costs based on the relative uses or benefits provided.

(e) *What is the limit on administrative costs for State central services?* Administrative costs in the form of overhead or indirect costs for State central services outside of the State fish and wildlife agency must be in accord with an approved cost allocation plan and cannot exceed in any one fiscal year three per centum of the annual apportionment to that State. Each State has a State Wide Cost Allocation Plan that describes approved allocations of indirect costs to agencies and programs within the State.

(f) *How much money may be obligated for aquatic education and outreach and communications?* (1) Each of the 50 States may spend no more than 15 percent of the annual amount apportioned to it under provisions of the Federal Aid in Sport Fish Restoration Act for an aquatic education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms.

(2) The Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa are not limited to the 15-percent cap imposed on the 50 States. Each of these entities may spend more for these purposes with the approval of the appropriate Regional Director.

3. Add § 80.27 to read as follows:

§ 80.27 Information collection requirements.

(a) Information gathering requirements include filling out forms to apply for certain benefits offered by the Federal Government. Information gathered under this part is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–7771) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669–669i). The Service may not conduct or sponsor, and applicants or grantees are not required to respond to, a collection of information unless the request displays a currently valid OMB control number. Our requests for information will be used to apportion funds and to review and make decisions on grant applications and reimbursement payment requests submitted to the Federal Aid Program.

(b) OMB Circular A–102 requires the use of several Standard Forms: SF–424, SF–424A and SF–424B, SF–424C, SF–424D, SF–269A and SF–269B, SF–270, SF–271 and SF–272 (For availability, see 5 CFR 1310.3.). Combined, as many as 12,000 of these forms are used annually by grant applicants. The individual burden is approximately 1 hour to compile information and complete each form; the total burden is approximately 12,000 hours (approximately 3,500 grants are awarded/renewed each year, but not all forms are used for all grants). These forms are needed to document grant applications and requests for reimbursement.

(c) Part 1 Certification (Service Form 3–154A, OMB Control No. 1018–0007) and Part 2 Summary of Hunting and Sport Fishing Licenses Issued (Service Form 3–154B, OMB Control No. 1018–0007) require approximately one-half hour from each of 56 respondent States and territories for a total burden of 28 hours. The information is routinely collected by the States and territories and easily transferred to these forms and certified. This information is used in a statutory formula to apportion funds among the grant recipients.

(d) The Grant Agreement, (Service Form 3–1552, OMB Control No. 1018–0049) and Amendment to Grant Agreement, (Service Form 3–1591, OMB Control No. 1018–0049) require approximately 1 hour to gather relevant information, review, type, and sign. This information is compiled in the normal agency planning processes and transferred to these forms. Recipients nationwide complete approximately 3,500 Grant Agreement forms and 1,750 Amendment to Grant Agreement forms during any fiscal year for a total burden of 5,250 hours. This information is used to document financial awards made to grant recipients and amendments to these awards.

(e) The Federal Aid Grant Application Booklet (OMB Control No. 1018–0109) contains narrative instruction for applying for grants. It requires approximately 80 hours to collect information and prepare a grant application package. Applicants prepare and submit about 5,250 of these grant application packages annually for a total burden of 283,500 hours. This information is used to determine if the work, cost, and future benefits of a grant application meet the needs of the

Federal Aid in Sport Fish and Wildlife Restoration programs.

(f) The public is invited to submit comments on the accuracy of the estimated average burden hours needed for completing Part I—Certification, Part II—Summary of Hunting and Sport Fishing Licenses Issued, Grant Agreement, Amendment to Grant Agreement, or The Federal Aid Grant Application Booklet and to suggest ways in which the burden may be reduced. Comments may be submitted to: U.S. Fish and Wildlife Service, Information Collection Clearance Officer, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

Dated: March 20, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–8418 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 66, No. 67
Friday, April 6, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM189; Notice No. 25–01–03–SC]

Special Conditions: Gulfstream Model GV Airplanes; Certification of Cooktops

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions; request for comments.

SUMMARY: These special conditions are issued for Gulfstream GV airplanes modified by Gulfstream Aerospace Corporation. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of an electrically heated surface, called a cooktop. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for addressing the potential hazards that may be introduced by cooktops. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before May 7, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–114), Docket No. NM189, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM189.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Transport Standards Staff, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2195; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the rules docket or notice number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The proposal described in this document may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these proposed special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM189.'' The postcard will be date stamped and returned to the commenter.

Background Information

On July 28, 2000, Gulfstream Aerospace Corporation, 4150 Donald Douglas Drive, Long Beach, CA, 90808, applied for a Supplemental Type Certificate (STC) to modify Gulfstream Model G–V airplanes. The Model G–V is a small transport category airplane powered by two 2 BMW–Rolls Royce Mark BR700–710A1–10 engines, with a maximum takeoff weight of 90,500 pounds. The G–V operates with a 2-pilot crew and can hold up to 19 passengers.

The modification incorporates the installation of an electrically heated surface, called a cooktop. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. These potential hazards to the airplane and its occupants must be satisfactorily addressed. Since existing airworthiness regulations do not contain safety standards addressing cooktops, special conditions are therefore proposed.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Gulfstream Aerospace Corporation must show that the Model G–V airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate Data Sheet No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate Data Sheet No. A12EA are part 25, as amended by Amendments 25–1 through 25–81, with reversions to earlier Amendments, voluntary compliance to later Amendments, special conditions, equivalent safety findings, and exemptions listed in the Type Certificate Data Sheet.

If the Administrator finds that the applicable airworthiness regulations (that is, part 25 as amended) do not contain adequate or appropriate safety standards for the Gulfstream G–V airplanes modified by Gulfstream Aerospace Corporation because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, these Gulfstream G–V airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Gulfstream Aerospace Corporation apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would

also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the modification of the Gulfstream GV airplanes will include installation of a cooktop in the passenger cabin. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards to protect the airplane and its occupants from these potential hazards. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

Currently, ovens are the prevailing means of heating food on airplanes. Ovens are characterized by an enclosure that contains both the heat source and the food being heated. The hazards represented by ovens are thus inherently limited, and are well understood through years of service experience. Cooktops, on the other hand, are characterized by exposed heat sources and the presence of relatively unrestrained hot cookware and heated food, which may represent unprecedented hazards to both occupants and the airplane.

Cooktops could have serious passenger and airplane safety implications if appropriate requirements are not established for their installation and use. The proposed special condition applies to cooktops with electrically powered burners. The use of an open flame cooktop (for example natural gas) is beyond the scope of this proposed special condition and would require separate rulemaking action. The requirements identified in this proposed special condition are in addition to those considerations identified in Advisory Circular (AC) 25–10, Guidance for Installation of Miscellaneous Non-required Electrical Equipment, and those in AC 25–17, Transport Airplane Cabin Interiors Crashworthiness Handbook. The intent of this proposed special condition is to provide a level of safety that is consistent with that on similar airplanes without cooktops.

Applicability

As discussed above, these special conditions are applicable to Gulfstream GV airplanes modified by Gulfstream Aerospace Corporation. Should Gulfstream Aerospace Corporation apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Gulfstream GV airplanes modified by Gulfstream Aerospace Corporation. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the supplemental type certification basis for Gulfstream Model G–V airplanes modified by Gulfstream Aerospace Corporation:

Cooktop Installations With Electrically-Powered Burners

1. Means, such as conspicuous burner-on indicators, physical barriers, or handholds, must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

2. Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents (soups or sauces, for example) from the effects of flight loads and turbulence.

(a) Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop.

(b) Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable.

(c) Placarding must be installed which prohibits the use of cookware that cannot be accommodated by the restraint system.

3. Placarding must be installed which prohibits the use of cooktops (that is, power on any burner) during taxi, takeoff, and landing (TTL).

4. Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop caused by materials or grease inadvertently coming in contact with the burners.

Note: Two acceptable means of complying with this requirement are as follows:

• Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended (this would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered). In addition, a fire detector must be installed in the vicinity of the cooktop, which provides an audible warning in the passenger cabin; and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. A fire on or around the cooktop must not block access to the extinguisher. One of the fire extinguishers required by § 25.851 may be used to satisfy this requirement if the total complement of extinguishers can be evenly distributed throughout the cabin. If this is not possible, then the extinguisher in the galley area would be additional.

or

• An automatic, thermally-activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

5. The surfaces of the galley surrounding the cooktop, which would be exposed to a fire on the cooktop surface or in cookware on the cooktop, must be constructed of materials that comply with the flammability requirements of part III of appendix F of part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

6. The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils. These procedures and time intervals must be

included in the Instructions for Continued Airworthiness (ICA). The ventilation system ducting must be protected by a flame arrestor.

Note: The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, entitled ''Air Conditioning Systems for Subsonic Airplanes,'' dated August 1, 1991.

7. Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

8. Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

9. A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

Issued in Renton, Washington, on March 29, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–8514 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR–038–FOR]

Arkansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposes revisions and additions of regulations concerning definitions; areas where surface coal mining operations are prohibited or limited; exception for existing operations; procedures for compatibility findings for surface coal mining operations on federal lands in national forests; procedures for relocating or closing public roads or waiving prohibitions on surface coal mining operations within the buffer zone of public roads; procedures for waiving prohibitions on surface coal mining operations within the buffer zone of occupied dwellings; submission and processing of requests for valid existing rights determinations; director's obligations at time of permit application review; interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress; applicability to lands designated as unsuitable by Congress; exploration on land designated as unsuitable for surface coal mining operations; procedures: initial processing, recordkeeping, and notification requirements; permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations; relationship to areas designated unsuitable for mining; protection of publicly owned parks and historic places; relocation or use of public roads; road systems; public notices of filing of permit applications; legislative public hearing; and criteria for permit approval or denial. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations and at its own initiative to enhance enforcement of the State program.

This document gives the times and locations that the Arkansas program and the proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.s.t., May 7, 2001. If requested, we will hold a public hearing on the amendment on May 1, 2001. We will accept requests to speak at the hearing until 4 p.m., c.s.t. on April 23, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Arkansas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Arkansas Department of Pollution Control and Ecology, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219–8913, Telephone (501) 682–0744.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Description of the Proposed Amendment

By letter dated March 1, 2001 (Administrative Record No. AR–567.04), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AR–567), that we sent to Arkansas under 30 CFR 732.17(c). The amendment also includes changes made at Arkansas' own initiative. Arkansas proposes to amend the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC). Below is a summary of the changes proposed by Arkansas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 761.5 Definitions

Arkansas proposes to revise the definitions of ''public buildings,'' and ''valid existing rights,'' and to add the definition of ''publicly owned park.''

B. Section 761.11 Areas Where Surface Coal Mining Operations Are Prohibited or Limited

Arkansas proposes to replace the existing language in this section with counterpart language to 30 CFR 761.11 that describes the lands where surface

coal mining operations may not be conducted, except as provided under 30 CFR 761.12 and 761.16.

C. Section 761.12 Exception for Existing Operations

Arkansas proposes to replace the existing language in this section with the following language:

The prohibitions and limitations of Section 761.11 do not apply to surface coal mining operations for which a valid permit, issued under Subchapter G of this chapter, exists when the land comes under the protection of Section 761.11. This exception applies only to lands within the permit area as it exists when the lands comes under the protection of Section 761.11.

D. Section 761.13 Procedures for Compatibility Findings for Surface Coal Mining Operations on Federal Lands in National Forests

Arkansas proposes to add a new section that explains what an applicant must do to conduct surface coal mining operations on Federal lands within a national forest.

E. Section 761.14 Procedures for Relocating or Closing a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road

Arkansas proposes to add a new section that explains the procedures an applicant must follow for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road.

F. Section 761.15 Procedures Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of an Occupied Dwelling

Arkansas proposes to add a new section that explains the procedures an applicant must follow for waiving the prohibition on surface coal mining operations within the buffer zone of an occupied dwelling.

G. Section 761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

Arkansas proposes to add a new section that explains the applicable definition of valid existing rights and which agency is responsible for making valid existing rights determinations on: (1) Federal lands within the areas listed at 30 CFR 761.11(a) and (b); and (2) all non-Federal lands within the areas listed at 30 CFR 761.11(a) and any lands listed at 30 CFR 761.11(c) through (g). This new section also explains the procedures applicants and agencies follow for valid existing rights determinations.

H. Section 761.17 Director's Obligations at Time of Permit Application Review

Arkansas proposes to add a new section that explains what the Director of the Arkansas Department of Environmental Quality or his authorized representative must do when an applicant submits an administratively complete application for: (1) a permit for a surface coal mining operation; or (2) a revision of the boundaries of a surface coal mining operation permit.

I. Section 761.200 Interpretative Rule Related to Subsidence due to Underground Coal Mining in Areas Designated by Act of Congress

Arkansas proposes to add a new section that reads as follows:

(a) Interpretation of Section 761.11 B AREAS WHERE MINING IS PROHIBITED OR LIMITED. Subsidence due to underground coal mining is not included in the definition of surface coal mining operations under Section 4(16) of the Act and Section 700.5 of this chapter and therefore is not prohibited in areas protected under Section 26(a)(1) of the Act.

J. Section 762.14 Applicability to Lands Designated as Unsuitable by Congress and Section 762.15 Exploration on Land Designated as Unsuitable for Surface Coal Mining Operations

Arkansas proposes to redesignate existing section 762.14 as new section 762.15 and to add a new section 762.14 to read as follows:

Pursuant to appropriate petitions, lands listed in Section 761.11 of this chapter are subject to designation as unsuitable for all or certain types of surface coal mining operations under this part and Part 764 of this chapter.

K. Section 764.15 Procedures: Initial Processing, Recordkeeping, and Notification Requirements

Arkansas proposes to revise this section by replacing the reference to an ''informal conference'' with a reference to a ''legislative public hearing.''

L. Section 776.12 Permit Requirements for Exploration That Will Remove More Than 250 Tons of Coal or That Will Occur on Lands Designated as Unsuitable for Surface Coal Mining Operations

Arkansas proposes to replace the existing language in this section. The proposed replacement language explains the procedures applicants and the Director of the Arkansas Department of Environmental Quality or his authorized representative must follow: (1) for a permit for conducting coal exploration outside a permit area during which more than 250 tons of coal will be removed; or (2) for a permit which will take place on lands designated as unsuitable for surface mining under Subchapter F.

M. Section 778.16 Relationship to Areas Designated Unsuitable for Mining

Arkansas proposes to revise this section to include requirements for surface coal mining operations within 100 feet of a public road, and by replacing the term ''surface coal mining and reclamation operations'' with the term ''surface coal mining operations.''

N. Section 780.31 Protection of Publicly Owned Parks and Historic Places

Arkansas proposes to change the section heading from ''Protection of public parks and historic places'' to ''Protection of publicly owned parks and historic places.'' Arkansas also proposes to revise section 780.31(a)(2) by including a cross reference to the proposed valid existing rights regulations at section 761.17(d).

O. Section 780.33 Relocation or Use of Public Roads

Arkansas proposes to revise the introductory paragraph to read as follows:

Each plan shall describe, with appropriate maps and cross section drawings, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under Section 761.14, the applicant seeks to have the Department's approval of

P. Section 780.37 Road Systems

Arkansas proposes to change the section heading from ''Transportation facilities'' to ''Road Systems.'' Arkansas also proposes to replace the existing language in this section with counterpart language to 30 CFR 780.37. The proposed language requires applicants to submit plans and drawings for each proposed road on a surface coal mining operation permit area. It also describes who is required to prepare and certify the plans and drawings.

Q. Section 786.11 Public Notices of Filing of Permit Applications

At section 786.11(a)(4), Arkansas proposes to replace the reference to an ''informal conference'' with a reference to a ''legislative public hearing.'' Also, Arkansas proposes to revise section 786.11(a)(5) to read as follows:

(5) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing

have previously been provided for this particular part of the road in accordance with Section 761.14 of this Chapter, a concise statement describing the public road, the particular part to be relocated or closed, and the duration of the relocation or closing.

R. Section 786.14 Legislative Public Hearing

Arkansas proposes to revise section 786.14(c) by deleting the reference to section 761.12(d) and replacing it with a reference to section 761.14(c).

S. Section 786.19 Criteria for Permit Approval or Denial

Arkansas proposes to revise section 786.19(d)(1) to read as follows:

(1) Not within an area designated unsuitable for surface coal mining operations under Parts 762 and 764 of this Chapter or within an area subject to the prohibitions of Section 761.11 of this Chapter; or,

Arkansas also proposes to delete sections 786.19(d)(4) and (d)(5) and redesignate sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Arkansas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. AR–038–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.s.t. on April 23, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 15, 2001.

Richard J. Seibel,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–8498 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13–01–004]

RIN 2115–AE46

Modification to Special Local Regulation (SLR) for Seattle Seafair Unlimited Hydroplane Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to update the Seafair Special Local Regulation (SLR) to enhance the safe execution of Seafair's hydroplane and air show event. The proposed rule adds one week to the time period within which the regulations of the SLR can become effective each year and adds restrictions on swimming and rafting within the regulated areas.

DATES: Comments and related material must reach the Coast Guard on or before June 5, 2001.

ADDRESSES: You may mail comments and related material to Commander, Thirteenth Coast Guard District (m), Jackson Federal Building, 915 Second Avenue, Room 3506, Seattle, WA, 98174–1067. The Thirteenth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents, indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Marine Safety Division, 35th floor, Thirteenth Coast Guard District, Seattle, Washington between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Jane Wong, either at the above address, or by phone at (206) 220–7224.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD 13–01–004), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to the person identified in the **FOR FURTHER INFORMATION CONTACT** section, or to the address under **ADDRESSES** explaining why a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

For more than 50 years the Seafair hydroplane races and air show on and over Lake Washington have been a Pacific Northwest tradition, entertaining millions of people over that period. However, these entertaining events involve risks to both spectators and participants. During the hydroplane races and air show, the marine congestion associated with the number of boats, swimmers, and spectators on shore challenges even the most experienced seaman. There is an inherent risk of a participating boat or plane losing control or crashing. This potentially violent and deadly scenario necessitates the maintenance of a regulated area to protect spectators while providing unobstructed vessel traffic lanes to ensure timely arrival of emergency response craft.

The current Seafair SLR contained in 33 CFR 100.1301 has been in effect since 1986 and allows the regulations to be effective within a two-week time period.

Discussion of Proposed Rule

The proposed rule makes several editorial changes to clarify the Seafair SLR and increase the readability of the rule with the activities regulated in each zone being more clearly identified.

There are also several modifications to the existing rule that the Coast Guard believes will increase the safety and efficiency of the event. The current SLR is only in effect during the last week of July and the first week of August. The dates for Seafair change slightly on an annual basis and could fall outside the effective dates of the current SLR. The

proposed rule expands the time when regulations can be in effect by one week to ensure that the regulation is in effect during Seafair. The expanded time period will allow for flexibility to change the date of Seafair. The dates and times when the regulations are implemented during the three-week timeframe of the rule will be published as a notice of implementation in the Local Notice to Mariners.

The current SLR does not sufficiently address swimmers and rafting of vessels. Over the years, some of the most severe injuries that have occurred on the water have been caused by boats running over swimmers. The proposed rule contains new constraints for swimmers to ensure persons either stay out of the water or within 10 feet of any vessel during heavy vessel traffic periods when the risk of injury is greatest. The proposed rule also includes guidelines for rafted vessels. Large numbers of vessels rafting can increase emergency response time and result in hazardous waterway congestion. In addition, rafting significantly exacerbates an emergency condition such as a vessel on fire or taking on water. Rafting to a log boom will be limited to groups of three (3) vessels, while drifting and anchored vessels away from the log boom will be limited to groups of six (6) vessels. These rules will allow emergency response vessels to move more effectively within the congested regulated area and reduce the exposure of vessels to dangerous situations.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect any economic impact as a result of this proposed regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This change slightly modifies existing safety regulations, and should not effect the economic activities of any Seafair participant or spectator.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

(1) Small entities this rule may affect include owners and operators of vessels, including small passenger vessels, intending to transit or anchor in a portion of Lake Washington during the event.

(2) This regulation will not have a significant economic impact on these small entities because there will be no substantial change from the way vessel operations have been running in years past. Because these regulations are aimed at recreational vessels, commercial vessels will not impacted.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT P.M. Stocklin, Jr. at Marine Safety Office Puget Sound, Waterways Management Branch, (206) 217–6237.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. This rule makes minor changes to the existing rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Revise § 100.1301 to read as follows:

§ 100.1301 Seattle Seafair Unlimited Hydroplane Race.

(a) This regulation will be in effect annually during the last week in July and the first two weeks of August from 8 a.m until 8 p.m. Pacific Daylight Time, as published in the Local Notice of Mariners. The event will be one week or less in duration. The specific dates during this time frame will be published in the Local Notice to Mariners.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is: The waters of Lake Washington bounded by the Interstate 90 (Mercer Island/Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) of this section has been divided into two zones. The zones are separated by a line perpendicular from the I–90 Bridge to the northwest corner of the East log boom and a line extending from the southeast corner of the East log boom to the southeast corner of the hydroplane race course and then to the northerly tip of Ohlers Island in Andrews Bay. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA Chart 18447).

(d) The Coast Guard will maintain a patrol consisting of Coast Guard vessels, assisted by Auxiliary Coast Guard vessels, in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the ''Patrol Commander''). The Patrol Commander is empowered to control the movement of vessels on the racecourse and in the adjoining waters during the periods this regulation is in effect. The Patrol Commander may be assisted by other federal, state and local law enforcement agencies.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which the regulation is in effect, swimming, wading, or otherwise entering the water in Zone I by any person is prohibited while hydroplane boats are on the racecourse. At other times in Zone I, any person entering the water from the shoreline shall remain west of the swim line, denoted by buoys, and any person entering the water from the log boom shall remain within ten (10) feet of the log boom.

(g) During the times in which the regulation is in effect, any person swimming or otherwise entering the water in Zone II shall remain within ten (10) feet of a vessel.

(h) During the times this regulation is in effect, rafting to a log boom will be limited to groups of three vessels.

(i) During the times this regulation is in effect, up to six (6) vessels may raft together in Zone II if none of the vessels are secured to a log boom.

(j) During the times this regulation is in effect, only vessels authorized by the Patrol Commander, other law enforcement agencies or event sponsors shall be permitted to tow other watercraft or inflatable devices.

(k) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(l) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven (07) miles per hour or less. The maximum speed may be reduced at the discretion of the Patrol Commander.

(m) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard may be assisted by other federal, state and local law enforcement agencies, as well as official Seafair event craft.

Dated March 1, 2001.

E.M. Brown,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth District.

[FR Doc. 01–8446 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–041]

RIN 2115–AE47

Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the Beach Channel Railroad Bridge, at mile 6.7, across Jamaica Bay in New York. This proposed temporary change to the drawbridge operation regulations would allow the bridge owner to require a twenty-four hours advance notice for bridge openings for thirty-one weeks, 6 a.m. to 7 p.m., on each Monday, Wednesday and Friday, from April 30, 2001 through November 30, 2001, and for six weekend days, 6 a.m. to 9 p.m., from Saturday, April 28, 2001 through Sunday, May 13, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

DATES: Comments must reach the Coast Guard on or before April 23, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–041), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First

Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) is being published with a shortened comment period of fourteen days instead of the normal sixty day comment period because the Coast Guard did not receive conclusive information concerning the start date for this project from the bridge owner until March 15, 2001. This delay in scheduling was unavoidable because the cleaning and painting phase is the last phase of a major rehabilitation project for this bridge and the completion of other aspects were required before the painting could be definitively scheduled.

The cancellation of weekend commuter rail service has been coordinated through New York City Transit Authority to commence on April 28, 2001. Advance notification to the public of rail service suspension on the six weekend days was required well in advance of the anticipated start date so that rail commuters may plan accordingly.

The Coast Guard project officer attended a meeting on March 1, 2001, with the major stakeholders that transit this waterway to discuss the proposed closures. No objections were received from the stakeholders regarding the proposed closures.

The Coast Guard anticipates that any temporary final rule enacted following public notice and comment will be effective in less than 30 days after publication.

Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the notification of weekend commuter rail service has been given and immediate action is needed to in order perform this work at the bridge during the spring, summer, and fall months of the year when ambient air temperatures and environmental conditions permit effective sand blasting and painting.

Background

The Beach Channel railroad Bridge, at mile 6.7, across Jamaica Bay has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, the New York City Transit Authority, asked the Coast Guard to temporarily change the drawbridge operation regulations to require at least a twenty-four hours advance notice be given to open the Beach Channel Railroad Bridge for thirty-one weeks on each Monday, Wednesday and Friday and for six weekend days in order to facilitate structural repairs and painting at the bridge. The Coast Guard contacted all known waterway users to advise them of the proposed closures. No objections or negative comments were received in response this proposal.

Discussion of Proposal

This proposed temporary change to the drawbridge operation regulations would require mariners to provide at least a twenty-four hours advance notice for bridge openings for thirty-one weeks from 6 a.m. to 7 p.m., on each Monday, Wednesday, and Friday, from April 30, 2001 through November 30, 2001, and from 6 a.m. to 9 p.m., on Saturday and Sunday, from April 28, 2001 through May 13, 2001. Advance notice may be given by calling the number posted at the bridge.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the bridge will still continue to open daily for navigation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that the bridge will still continue to open for navigation daily.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From April 28, 2001 through November 30, 2001, § 117.795 is temporarily amended by adding a new paragraph (e) to read as follows:

§ 117.795 Jamaica Bay and connecting waterways.

* * * * *

(e) The Beach Channel Railroad Bridge, at mile 6.7, shall open on signal after at least a twenty-four hours advance notice is given from 6 a.m. to 7 p.m., on each Monday, Wednesday, and Friday, from April 30, 2001 through November 30, 2001, and from 6 a.m. to 9 p.m., on Saturday and Sunday, from April 28, 2001 through May 13, 2001. Advance notice may be given by calling the number posted at the bridge.

Dated: April 2, 2001.

Gerald M. Davis,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 01–8640 Filed 4–4–01; 1:42 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 114–1114; FRL–6963–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the purpose of amending the state's construction permit rule. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by May 7, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 7, 2001.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–8480 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH10

Endangered and Threatened Wildlife and Plants: Prudency Determinations for Eight Plant Species From the Hawaiian Islands, and Proposed Critical Habitat Designations for Eighteen Plant Species From the Island of Lanai, Hawaii; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Correction.

SUMMARY: The proposed rule to determine prudency for eight plant species from the Hawaiian Islands and to propose critical habitat designations for eighteen plant species from the island of Lanai was published in the **Federal Register** on December 27, 2000 (65 FR 82086). This document contains corrections to the proposed designations of critical habitat for eighteen plant species from Lanai. These corrections are necessary to provide the correct map of general locations of units for eighteen plant species from Lanai and to provide the correct maps and UTM coordinates for critical habitat units Lanai B, I, and J. As noted in the proposed rule, the GIS maps are provided to assist the public in identifying areas that may fall within the proposed designations. The corrected critical habitat units are described below.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, Hawaii 96850–0001 (telephone 808/541–3441; facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION: On December 27, 2000, the U.S. Fish and Wildlife Service (Service) published a proposal to designate critical habitat for 18 plant species from the island of Lanai, Hawaii. In that proposal, a total of approximately 1,953 hectares (ha) (4,826 acres (ac)) on the island of Lanai were proposed as critical habitat.

As published, the proposal contained errors in Table 5 (''Approximate Proposed Critical Habitat Area by Unit, Lanai, Maui County, Hawaii'') and in the ''Descriptions of Critical Habitat Units'' for units Lanai B and I. The corrected total area for Lanai B is 137 ha (339 ac) and for Lanai I 176 ha (436 ac). As a result, the corrected total area proposed as critical habitat is now 2,034 ha (5,027 ac) on Lanai. In addition, the

proposal contained errors in the legal descriptions and maps depicting critical habitat for units Lanai B, I, and J. We are providing corrected legal descriptions and GIS maps of critical habitat units Lanai B, I, and J. The legal descriptions of the critical habitat designations required by regulation (50 CFR 424.12(c)) are the UTM coordinates that provide specific limits using reference points as found on standard topographic maps of the areas.

Accordingly, make the following corrections to FR Doc. 00–31080 published at 65 FR 82086 on December 27, 2000:

PART 17—[CORRECTED]

§ 17.96 [Corrected]

1. On page 82111, in § 17.96(a)(1)(i)(E), correct the map for ''General Locations of Units for 18 Species of Plants, Island of Lanai'' to read as follows:

§ 17.96 Critical habitat—plants.

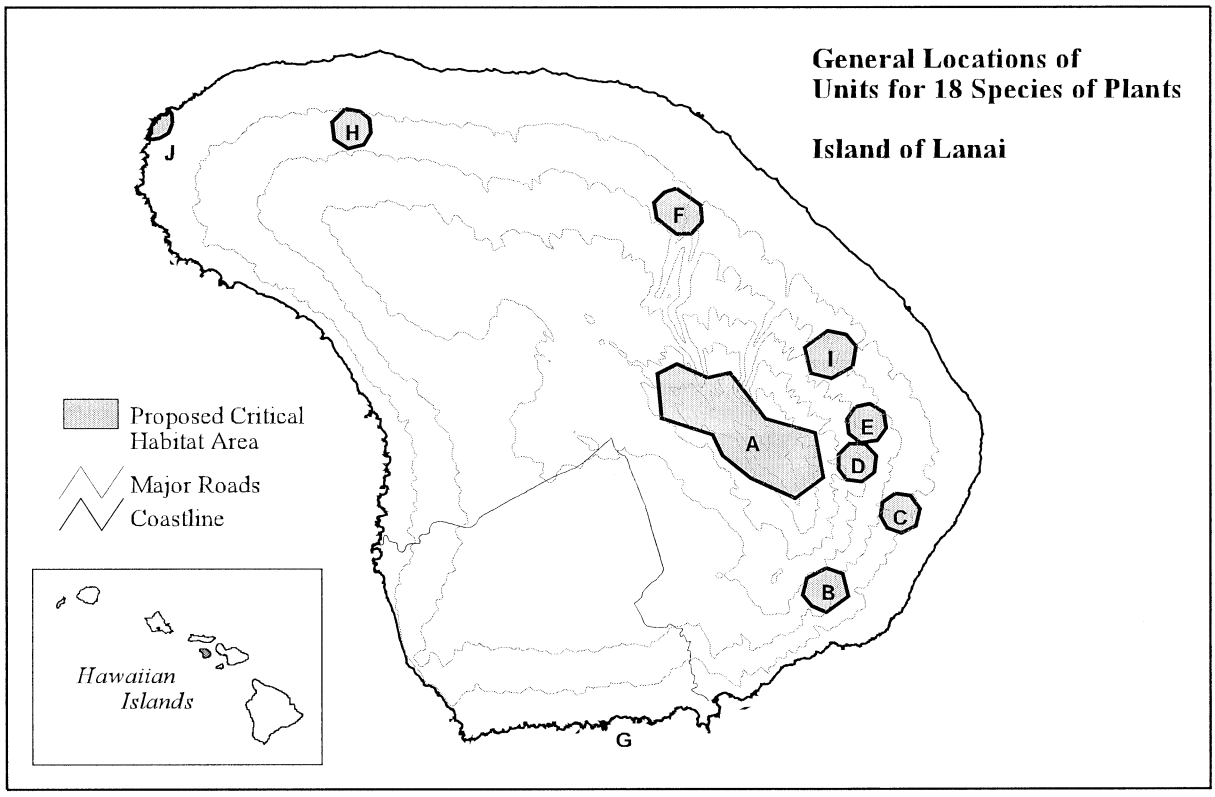
(a) * * *

(1) * * *

(i) * * *

(E) * * *

BILLING CODE 4310–55–P



* * * * *

2. On page 82112, in column 2, in § 17.96(a)(1)(i)(E), correct the coordinates and legal description, and map for Lanai B to read as follows:

* * * * *

(a) * * *

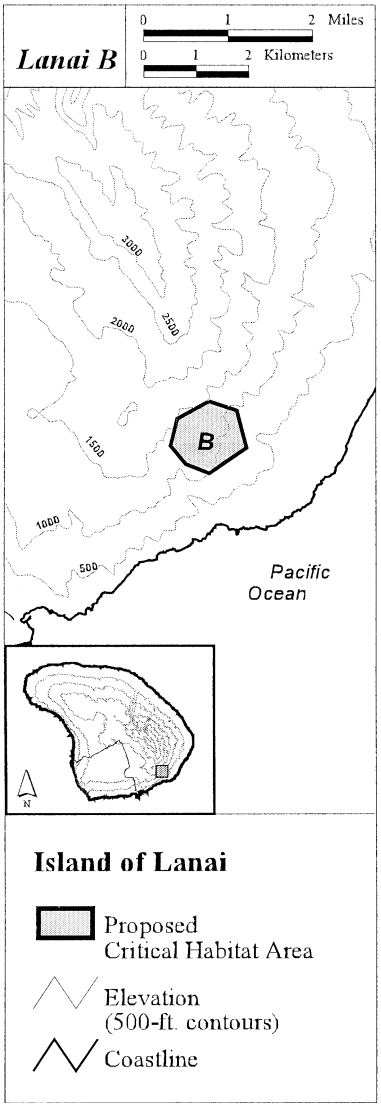
(1) * * *

(i) * * *

(E) * * *

Critical Habitat Unit Lanai B: Area consists of the following seven boundary points: 723152, 2299428; 723686, 2299254; 723871, 2298540; 723158, 2298040; 722708, 2298220; 722422, 2298574; 722551, 2299102.

NOTE: Map follows:



* * * * *

3. On page 82114, in column 3, in § 17.96(a)(1)(i)(E), correct the coordinates and legal description, and map for Lanai I to read as follows:

* * * * *

(a) * * *

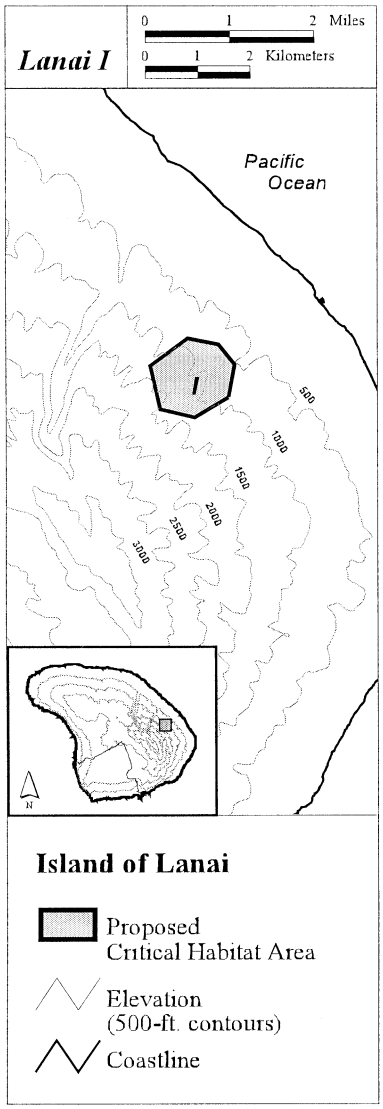
(1) * * *

(i) * * *

(E) * * *

Critical Habitat Unit Lanai I: Area consists of the following seven boundary points: 723999, 2305825; 723340, 2305440; 722686, 2305597; 722499, 2306432; 723217, 2306957; 723807, 2306835; 724116, 2306461.

Note: Map follows:



* * * * *

4. On page 82115, in columns 1 and 2, in § 17.96(a)(1)(i)(E), correct the coordinates and legal description, and map for Lanai J to read as follows:

* * * * *

(a) * * *

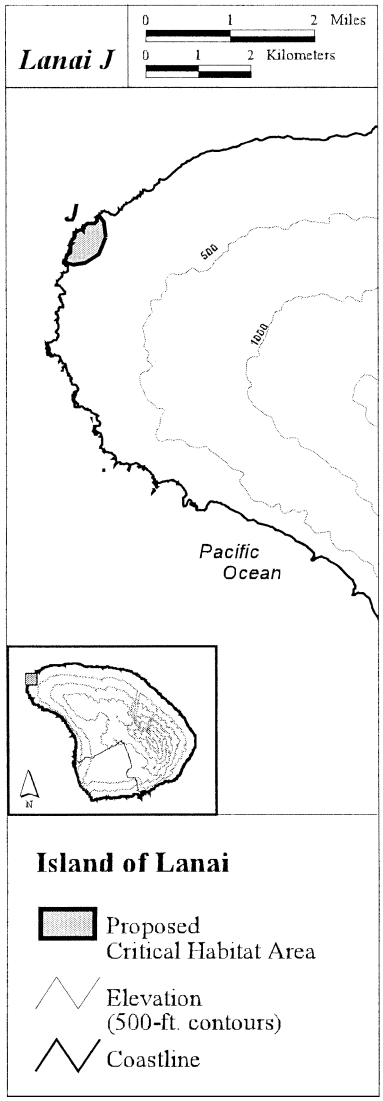
(1) * * *

(i) * * *

(E) * * *

Critical Habitat Unit Lanai J: Area consists of the following eight points and the intermediate coastline: 702559, 2313776; 702658, 2313650; 702688, 2313348; 702566, 2313030; 702299, 2312864; 702063, 2312826; 701890, 2312877; 701888, 2312878.

Note: Map follows:



* * * * *

Dated: March 28, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01–8473 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–55–C

Notices

Federal Register
Vol. 66, No. 67
Friday, April 6, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–01–01]

Request for New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's intention to request an approval for the Research and Promotion Board, Council, and Committee Membership Background Information Collection.

DATES: Comments on this notice must be received by June 5, 2001 to be assured of consideration.

ADDRESSES: Submit comments to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, 1400 Independence Ave., SW., Stop 0244, Washington, DC 20250–0244; telephone (202) 720–9915; Fax (202) 205–2800; or malinda.farmer@usda.gov.

FOR FURTHER INFORMATION CONTACT: Martha Ransom at the same address and telephone number above or to *martha.ransom@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Research and Promotion Board, Council, and Committee Background Information.

OMB Number: 0581–NEW.

Expiration Date of Approval: New information collection—3 years from date of approval.

Type of Request: Approval of new information collection.

Abstract: The primary objective for the use of the AMS–755 form is to determine qualifications, suitability, and availability for service on national research and promotion boards, councils, and committees. The information will be used to determine whether persons nominated are eligible to serve on these entities and to conduct background clearances.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per response.

Respondents: Producers, handlers, processors, importers, exporters, and public representatives (nominees for research and promotion boards, councils, and committees).

Estimated Number of Respondents: 565.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 283 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Martha Ransom at the above address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 2, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–8466 Filed 4–5–01; 8:45 am]

BILLING CODE 3410–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 5:30 p.m. and adjourn at 8 p.m. on April 26, 2001, at the Radisson Suite Hotel-Huntsville, 6000 South Memorial Parkway, Huntsville, Alabama 35824. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 30, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–8515 Filed 4–5–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 6 p.m. and recess at 8 p.m. on Wednesday, April 18, 2001, at the Holiday Inn Riverton Convention Center, 900 E. Sunset, Riverton, Wyoming 82501. The purpose of the meeting is to: (1) Discuss civil rights issues in the State, (2) plan future activities, and (3) brief the Committee on the community forum format. The Committee will reconvene at 9 a.m. and adjourn at 6 p.m. on Thursday, April 19, 2001, at the same location. The purpose of the meeting is to hold a community forum on: ''Education Issues Affecting

Minority and At-Risk Students in Wyoming Public Secondary Schools.''

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 30, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–8516 Filed 4–5–01; 8:45 am]

BILLING CODE 6335–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, April 13, 2001, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approved of Agenda
II. Approval of Minutes of March 9, 2001 Meeting
III. Announcements
IV. Staff Director's Report
V. Alleged Voting Irregularities in Florida: Discussion of Outline of The Final Document
VI. State Advisory Committee Report
- Reconciliation at a Crossroads: The Implications of *Rice* v. *Cayetano* on Programs for Native Hawaiians (Hawaii)
- Civil Rights Issues Facing Arab Americans in Michigan (Michigan)

VII. Future Agenda Items

11 a.m. Briefing on Equal Educational Opportunity: Vouchers/Choice, Charters, High Stakes Testing and Bilingual Education

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications (202) 376–8312.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–8694 Filed 4–4–01; 2:43 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–836]

Notice of Initiation of Antidumping Investigation: Live Processed Blue Mussels From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Investigation.

EFFECTIVE DATE: April 6, 2001.

FOR FURTHER INFORMATION CONTACT: Ron Trentham, Zev Primor and Paige Rivas at (202) 482–6320, (202) 482–4114 and (202) 482–0651, respectively; AD/CVD Enforcement Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2000).

The Petition

On March 12, 2001, the Department of Commerce (the Department) received a petition filed in proper form by Great Eastern Mussel Farms Inc. (hereinafter, the petitioner). On March 20, 2001, the Department received a letter from the petitioner amending the petition. The petitioner is a mussel processor in the United States market.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of live processed blue mussels from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department to initiate (*see* below).

Period of Investigation

The anticipated period of investigation (POI) is April 1, 2000 through March 31, 2001.

Scope of Investigation

Imports covered by the investigation are shipments of live processed blue mussels from Canada. Included in the scope are fresh, live processed blue mussels (*mytilus edulis*). Processing includes, but is not limited to, purging, grading, debearding, picking, inspecting and packing. The live processed blue mussels subject to this investigation are currently classifiable under subheadings 0307.31.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive. *See Initiation Checklist,* Re: product description.

During our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflected the product for which the domestic industry is seeking relief. The petitioner agreed that the scope of the petition should be expanded to include both farmed and non-farmed mussels. *See* Memorandum to File: Live Blue Processed Mussels from Canada—Scope Definition (March 20, 2001). Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days from publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining

whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authorities. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this case, we have adopted the definition of the domestic like product defined in the ''Scope of Investigation'' section, above. That definition was developed in consultation with the petitioner.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Finally, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

On March 28, 2001, Confederation Cove Mussel Co. Ltd. (CCMC), a Canadian mussel producer, filed a submission stating that the petitioner does not constitute 100 percent of the U.S. domestic industry. *See* Letter from CCMC to the Secretary of Commerce, Re: Mussels from Canada, Comments on Standing, March 28, 2001. On March 29, 2001, the petitioner submitted rebuttal comments to CCMC's comments. *See* Letter from the Petitioner to the Secretary in Response to CCMC, March 29, 2001. On March 30, 2001, the Government of Canada submitted comments reiterating some of the same arguments made by CCMC. *See* Diplomatic Note No. 0101 (March 30, 2001).

In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied upon not only the petition and amendments thereto, but also upon ''other information'' it obtained through research. *See* Determination of Industry Support for the Petition for the Initiation of the Antidumping Duty Investigation of Live Processed Blue Mussels from Canada (Industry Support Memorandum), April 2, 2001, and *Initiation Checklist* Re: Industry Support.

Based on a review of these sources of information and all submitted comments, we have determined that the petitioner accounts for at least 50 percent of production by the domestic industry. Furthermore, no domestic interested party has expressed opposition to the petition. Thus, pursuant to section 734(c)(4)(A), there is adequate support for the petition.

Accordingly, we determine that the petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to home market price, and U.S. price are detailed in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Export Price

The petitioner identified the following Canadian companies as processors of blue mussels in its petition: Atlantic Mussels Growers, Atlantic Shellfish, PEI Mussel King, Prince Edward Aqua Farms, and CCMC. The petitioner based export prices (EPs) on actual prices between the Canadian processors and U.S. wholesalers. The prices were obtained from U.S. wholesalers by the petitioner. Where appropriate, the petitioner made adjustments for movement and packing expenses. The movement expenses figures were based on an invoice from a Canadian mussels producer to an unaffiliated U.S. customer and a price quote from an independent freight company delivering subject merchandise to both U.S. and Canadian markets. Further, the petitioner stated that it based packing expenses on its own cost experience because the packing materials are virtually identical in both markets. To support the accuracy of this information the petitioner provided an affidavit from the company official that was responsible for collecting the information.

Additionally, the Department conducted its own research in order to determine the average entered value of live blue mussels from Canada. Based on U.S. Customs data, we determined that the average entered value of blue mussels from Canada during the POI was 0.73 dollar per pound of mussels (unadjusted for freight and packing). This figure was within the range of petitioner's alleged U.S. prices. We also confirmed that figure through a publication, *SeafoodReport,* which tracks U.S. imports for a variety of shellfish. *See* Memorandum to File: Live Processed Mussels from Canad—Average Price of Imported Mussels from Canada (March 29, 2001).

Normal Value

The petitioner based normal value (NV) on actual prices from the five major processors named above to unaffiliated Canadian wholesalers. The NVs were obtained by the petitioner from Canadian wholesalers and adjusted for domestic freight and packing charges. The freight expenses were based on a price quote provided by an independent freight company which provides freight services to both U.S. and Canadian markets. Packing expenses were based on the petitioner's own cost experience. To support the accuracy of this information, the petitioner provided an affidavit from the company official that was responsible for collecting the information.

Fair Value Comparisons

Based upon the comparison of NV to EP, the petitioner calculated estimated dumping margins ranging from 15 to 67 percent. Thus, based on the data provided by the petitioner, there is reason to believe that imports of live

[1] *See Algoma Steel Corp. Ltd.,* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

processed blue mussels from Canada are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioner contends that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including the U.S. Customs' import statistics and the *SeafoodReport* which indicate that imports of blue mussels from Canada in 2000 grew by at least 30 percent compared to the prior year. *See Seafood Report,* at vol. 5, numbers 9 and 12 (attached to the petition). According to the petitioner, the trend of Canadian imports registered similar growth rates in the past four years, while during the same period petitioner's sales have been declining. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Initiation Checklist* at Attachment Re: Material Injury).

Initiation of Antidumping Investigation

Based upon our examination of the petition on live processed blue mussels, and the petitioner's response to our supplemental questionnaire clarifying the petition, as well as our conversations with industry experts who provided information concerning various aspects of the petition, we have found that they meet the requirements of section 732 of the Act. *See* Industry Support Memorandum. Therefore, we are initiating an antidumping duty investigation to determine whether imports of live processed blue mussels from Canada are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of this petition has been provided to the representatives of the Government of Canada. We will attempt to provide a copy of the public version to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, no later than April 26, 2001, whether there is a reasonable indication that imports of live processed blue mussels from Canada are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 2, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–8524 Filed 4–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–605]

Industrial Phosphoric Acid From Israel: Notice of Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 6, 2001.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the administrative review of the countervailing duty order on industrial phosphoric acid from Israel. The review covers the period January 1, 1999 through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Samantha Denenberg, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3964 or (202) 482–1386, respectively.

Postponement of Preliminary Results of Review

On October 2, 2000, the Department published a notice of initiation of an administrative review of the countervailing duty order on industrial phosphoric acid from Israel, covering the period January 1, 1999 through December 31, 1999 (65 FR 58733). The preliminary results are currently due no later than May 3, 2001.

Section 751(a)(3)(A) of the Tariff Act, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested. However, if it is not practicable to complete the preliminary results within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for a preliminary determination to a maximum of 365 days.

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results to no later than August 31, 2001. *See* Memorandum from Barbara E. Tillman to Joseph A. Spetrini, dated April 2, 2001, which is on file in the Central Records Unit, Room B–099 of the main Commerce Building. This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 30, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–8523 Filed 4–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Georgia Coastal Management Program, and the Rookery Bay National Estuarine Research Reserve in Florida.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR Part 923. The National Estuarine Research Reserve evaluation will be conducted pursuant to section 315 of the CZMA, as amended and regulations at 15 CFR Part 921, Subpart E and part 923 Subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or Reserve final management plan, approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the date, local time, and location of the public meetings during the site visits.

The Georgia Coastal Management Program evaluation site visit will be from May 21–25, 2001. One public meeting will be held during the week. The public meeting will be held on Wednesday, May 23, 2001, at 7 p.m., at the Georgia Coastal Resources Division Offices, One Conservation Way, Brunswick, Georgia.

The Rookery Bay National Estuarine Research Reserve site visit will be from May 12–18 2001. One public meeting will be held during the week. The public meeting will be held on Thursday, May 17, 2001, at 6 p.m., at the Rookery Bay National Estuarine Research Reserve Headquarters Building, Florida Department of Environmental Protection, 300 tower Road, Naples, Florida.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (310) 713–3155, Extension 114.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: April 2, 2001.

Capt. Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–8669 Filed 4–5–01; 8:45 am]

BILLING CODE 3510–08–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revised Due Date for New Tribal Applications for Assistance Under AmeriCorps*State/National

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: We have extended the deadline for new applications by Indian tribes for assistance under AmeriCorps*State/National. The new deadline is June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Shelly Ryan, (202) 606–5000, ext. 549 or sryan@cns.gov. T.D.D. (202) 565–2799. For individuals with disabilities, we will make this information available in alternative formats upon request.

Dated: April 3, 2001.

Peter Heinaru,

*Director, AmeriCorps*State/National.*

[FR Doc. 01–8542 Filed 4–5–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Schlager Blast Utility Program

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial No. 60/235,899 entitled ''Schlager Blast Utility Program'' and filed September 28, 2000. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: An object-oriented program was developed to run in Windows environment. The program is designed (1) to identify DNA in multiple sequence files; (2) to electronically capture search results from the National Center for Biotechnology Institute (NCBI) databases; and (3) to retrieve stored results data in a interconnected file structure organized for easy review and further analysis. The program automatically creates folders for placement of sequence identification data, locates known sequences of DNA for removal, interacts with the BLAST program on the NCBI website to identify unknown DNA data by sequence comparison, stores and parses the HTML formatted match results into Excel files and compiles the best match from each file into a DNA library file. The program automates each of these steps involved in the identification of the DNA nucleotide sequences capturing all pertinent NCBI data in a spreadsheet format.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–8555 Filed 4–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Revised Draft Supplemental Environmental Impact Statement (DSEIS) for the St. Johns Bayou and New Madrid Floodway Project, Missouri, First Phase

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Development of environmentally sustainable flood protection alternatives for the St. Johns Bayou and New Madrid Floodway basins is the purpose of the proposed reevaluation. A Notice of Availability for the Final Supplemental Environmental Impact Statement (FSEIS) on the St. Johns Bayou and New Madrid Floodway, Missouri, First Phase, Supplement to the 1982 St. Johns Bayou-New Madrid Floodway Final Supplemental Environmental Impact Statement and the Mississippi River and Tributaries Project, Mississippi River Levees and Channel Improvement 1976 Final Environmental Impact Statement was published in the **Federal Register** on September 8, 2000. The FSEIS was distributed to Federal and State agencies and the public. The FSEIS evaluated plans that provide flood protection in the St. Johns Bayou and New Madrid Floodway Basins in southeast Missouri. Substantive comments promulgated by the Department of the Interior, U.S. Environmental Protection Agency (EPA), and the State of Missouri concerning the FSEIS array of alternatives resulted in the Corps of Engineers decision to prepare a revised DSEIS to evaluate alternative levee closure alignments and relevant mitigation options.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Sharpe, telephone (901) 544–3476, CEMVM–PM–P, 167 North Main street, B–202, Memphis, TN 38103–1894. Questions or comments regarding the revised DSEIS (including scoping input) may be directed to Mr. David L. Reece, Chief, Environmental and Economic Analysis Branch, telephone (901) 544–3970, CEMVM–PM–E, or Mr. John Rumancik, telephone (901) 544–3975, CEMVM–PM–E.

SUPPLEMENTARY INFORMATION: The St. Johns Bayou Basin and New Madrid Floodway are located in the Bootheel region of southeast Missouri, and include all or portions of New Madrid, Scott, and Mississippi counties. The basins are adjacent to the Mississippi River, and subject to both backwater and interior headwater flooding. Congress authorized the Mississippi River and Tributaries (MR&T) Project in the Flood Control Act of 1928, to construct the mainline Mississippi River levees. The Birds Point—New Madrid Floodway was a portion of the 1928 Flood Control Act. A levee closure and outlet structure at New Madrid, Missouri, were authorized in the Flood Control Act of 1954 (Pub. L. 780–83), but not constructed. The St. Johns Bayou Basin levee closure, with drainage structure, was authorized in the Flood Control Act of July 24, 1946, and subsequently constructed. An EIS for the MR&T and Channel Improvement was filed with the Council on Environmental Quality on July 2, 1976, which addressed the New Madrid Floodway levee closure. The St. Johns Bayou/New Madrid Floodway Project Final Supplemental Environmental Impact Statement (SEIS) was filed with the EPA on July 23, 1982. The current project was authorized for construction by the Water Resources Development Act of 1986 (Pub. L. 99–662), section 401(a). The authorized project is based on the Report of the Chief of Engineers, dated January 4, 1983, which is part of the Phase I General Design Memorandum (GDM) documents prepared in response to section 101(a) of the Water Resources Development Act of 1976 (Pub. L. 94–587). This revised DSEIS is being prepared to supplement the 1976 MR&T EIS and the 1982 St. Johns Bayou/New Madrid Floodway Project Final SEIS.

1. Proposed Action

The recommended plan of improvement for the First Phase work, as evaluated in the September 2000 FSEIS, includes about 23 miles of channel modification, a 1,000 cfs pumping station for the St. Johns Bayou Basin area, a 1,500 cfs pumping station for the New Madrid Floodway area, and a 1,500 foot closure levee and gravity outlet structure at the southern end of the New Madrid Floodway. The revised DSEIS will address and evaluate the environmental and economic impacts of alternative levee closure locations, develop and discuss the locations of potential compensatory mitigation sites, and further address concerns from Federal and State resource agencies.

2. Alternatives

Several flood reduction alternatives, including mitigation, were evaluated in the previous EIS(s). In addition to the recommended plan, the September 2000 FSEIS included a reevaluation of the 1986 authorized plan for flood protection and NO Action alternative. The revised DSEIS will analyze other alternative levee closure alignments and options inside the New Madrid Floodway. Each alternative levee closure alignment would result in different amounts of cropland and wooded land available for periodic Mississippi River backwater flooding to provide fishery spawning and rearing habitats.

3. Scoping Process

An intensive public involvement program has been ongoing. There have been additional interagency environmental and project sponsor meetings since the September 2000 FSEIS was produced. Interagency environmental meetings will continue to be held as needed. Significant issues to be addressed in the revised DSEIS will include alternative levee closure locations for the New Madrid Floodway, related impacts, and fish and wildlife mitigation alternatives. This NOI will serve as a request for scoping input. Interested parties are invited to provide comments or concerns to the above address. It is anticipated that the revised DSEIS will be available for public review in the Fall of 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–8554 Filed 4–5–01; 8:45 am]

BILLING CODE 3710–KS–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) Pertaining to the Santa Cruz River Where Its Course From the South Enters the City of Tucson, Pima County, AZ

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Analyses of foreseeable environmental impacts from potential actions along the Santa Cruz River in the City of Tucson, Pima County, Arizona, will commence. No explicit plans have been advanced as yet, so contents of the Draft EIS remain to be determined during the public scoping process. The portion of the river to be studied extends from about Valencia Road (upstream) to about Congress Road (downstream), a distance of about 6.9 river miles. Pima County has identified within this length of the river needs associated with loss of riparian habitat and the presence of cultural resources. Those needs will guide the formulation of plans for this region, the *Paseo de las Iglesis* (way, or walk of the churches) segment of the Santa Cruz River.

The U.S. Army Corps of Engineers and Pima County, Arizona, will cooperate in conducting this feasibility study.

ADDRESSES: District Engineer, U.S. Army Corps of Engineers, Los Angeles District, ATTN: CESPL–PD–RP, P.O. Box 532711, Los Angeles, California 90053–2325.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Moeur, Environmental

Coordinator, telephone (213) 452–3874, or Mr. John E. Drake, Study Manager, telephone (602) 640–2033. The cooperating entity, Pima County, requests inquiries be made to Ms. Mary Lou Johnson, telephone (520) 740–6444, for any additional information.

SUPPLEMENTARY INFORMATION:

1. Authorization

Feasibility studies for Paseo de las Iglesias were authorized by Section 6 of the Flood Control Act of 1938. The 75th Congress of the United States passed what became Public Law 761. This legislation states, in part: ''* * * the Secretary of War [Secretary of the Army since 1947] is hereby authorized and directed to cause preliminary examinations and surveys * * * at the following locations * * * Gila River and tributaries, Arizona, * * *.'' The Santa Cruz River once flowed into the Gila when a wetter climate prevailed in the southwest, and its watershed still joins that of the Gila near Laveen, Arizona.

2. Background

The Santa Cruz River arises in southeastern Arizona, passes southwesterly into Sonora, Mexico, then turns northward again and re-enters the United States at Nogales, Arizona. Since before the late 16th century when the Spanish explored the southwest, the Santa Cruz River never ran continuously all the way to the Gila. Where underlying bedrock along its course forced water to the surface, the Santa Cruz was perennial. Historically, reliable surface flows along the Santa Cruz could be found intermittently between Nogales and Martinez Hill, to the east Mission San Xavier in the southerly parts of what is now metropolitan Tucson. Subsurface flow farther north sustained a riparian community. Downstream of the confluence with the so called West Branch of the Santa Cruz the water table again rose above the surface around Sentinel Hill. Year-round water supplied the needs of Mission San Agustín, built on the west side of the river at the foot of the hill where Tohono O'Odham people kept a village (called *stjukshon* by them), and the *presidio* on the east side of the Santa Cruz. These two historic locations became the origin modern day Tucson.

The Feasibility Studies to be evaluated by this Draft EIS will evaluate: (1) Alternative means of structural stabilization to the river's banks between Valencia Road (upstream) and the site of Mission San Agustín (downstream); (2) opportunities to reclaim lotic properties of the Santa Cruz near downtown Tucson, and elements of the riparian community on its banks; (3) modifications of upland surfaces adjacent to the incised banks to promote growth of appropriate native upland vegetation; (4) designs for recreational facilities which would feature prehistoric elements, historic properties, and biological traits of this portion of the Santa Cruz; (5) integrate these recreational considerations into the Juan Bautista de Anza National Trail; and (6) the efficacy of recharging subsurface aquifers by means of water released into the river bottom downstream of Valencia Road.

Prehistoric and historic cultural resources are abundant along this stretch of the Santa Cruz. Neither Federally protected species nor critical habitat for listed species have been identified here.

3. Proposed Action

No plan of action has yet been identified.

4. Alternatives

a. *No Action:* No improvement or reinforcement of existing banks or uplands.

b. *Proposed Alternative Plans:* None have been formulated to date.

5. Scoping Process

Participation of all interested Federal, State, and County resource agencies, as well as Native American peoples, groups with environmental interests, and all interested individuals is encouraged. Public involvement will be most beneficial and worthwhile in identifying pertinent environmental issues, offering useful information such as published or unpublished data, direct personal experience or knowledge which inform decision making, assistance in defining the scope of plans which ought to be considered, and recommending suitable mitigation measures warranted by such plans. Those wishing to contribute information, ideas, alternatives for actions, and so forth can furnish these contributions in writing to the points of contacts indicated above, or by attending public scoping opportunities.

The scoping period will conclude 30 days after publication of this NOI and simultaneous publication in newspapers circulated in the greater Tucson area.

When plans have been devised and alternatives formulated to embody those plans, potential impacts will be evaluated in the DEIS. These assessments will emphasize at least fourteen categories of resources: Land use, impromptu historic landfills created by dumping trash over the banks, hazardous wastes, physical environment, hydrology, groundwater, biological, archaeological, geological, air quality, noise, transportation, socioeconomic, and safety.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–8553 Filed 4–5–01; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.299B]

Indian Education Discretionary Grant Programs—Professional Development

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

Purpose of Program: The purposes of this program are to (1) increase the number of qualified Indian individuals in professions that serve Indian people; (2) provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (3) improve the skills of qualified Indian individuals who serve in the capacities described in (2). Activities may include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Grants for training educational personnel may be for preservice or inservice training. For individuals who are being trained to enter any field other than education, the training received must be in a program resulting in a graduate degree.

For FY 2001, the competition for new awards is restricted to projects designed to meet the absolute priority described in the PRIORITY section of this application notice.

Eligible Applicants: Eligible applicants for this program are institutions of higher education, including Indian institutions of higher education; State or local educational agencies, in consortium with institutions of higher education; and Indian tribes or organizations, in consortium with institutions of higher education. An application from a consortium of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129. The written consortium agreement must be submitted with the application. The agreement must be signed or the applicant must submit other evidence that all the members of the consortium agree to the contents of the agreement. Letters of support do not meet the consortium requirements. The

Secretary rejects and does not consider an application that does not meet these requirements.

Institutions of higher education, including Indian institutions of higher education, that cannot directly offer the accredited master's level program required to meet the requirements for Absolute Priority #2 must submit a consortium application with an accredited institution of higher education that can offer a master's level degree and program coursework in order to be considered an eligible applicant. The written consortium agreement must be submitted with the application. The agreement must be signed or the applicant must submit other evidence that all the members of the consortium agree to the contents of the agreement. Letters of support do not meet the consortium requirements. The Secretary rejects and does not consider an application that does not meet these requirements.

Deadline for Transmittal of Applications: June 1, 2001.

Deadline for Intergovernmental Review: July 31, 2001.

Applications Available: April 11, 2001.

Absolute Priority: The Secretary reserves all or a portion of the funds available for new awards under the Professional Development program to fund only those applications that meet one of these absolute priorities:

(1) In-Service Administrator Training —

Provide professional development activities to existing administrators that enhance their skills and knowledge in more than one of the following areas—

(a) Standards and assessments;
(b) Integrating reliable, research-based teaching methods and technology into the curriculum;
(c) Mentoring, coaching, and evaluating the performance of teachers;
(d) Site-based management; or
(e) Reform efforts to improve teacher quality.

(2) Pre-Service Administrator Training

(a) Provide support and training to Indian individuals to complete a master degree, within a two-year period, in education administration that allows participants to meet the requirements for state certification or licensure as an education administrator, and

(b) Provide graduates of the program with one year of induction services while they are working in schools with significant Indian student populations.

Note: Funding of a particular project depends on the availability of funds, the requirements of the final priorities selected, and the quality of the applications received. The Secretary reserves up to $1,000,000 or approximately 20 percent of the funds available for new awards for projects that meet Priority 1, and up to $4,000,000 or approximately 80 percent of the funds available for new awards for projects that meet Priority 2.

Available Funds: $5,000,000.

Estimated Range of Awards: $300,000 to $500,000.

Estimated Average Size of Awards: $385,000.

Estimated Number of Awards: 13.

Note: The Department is not bound by any estimates in this notice.

Project Period for Absolute Priority #1 Projects: Up to 24 months. It is the expectation of the Department that all project periods will begin August 1, 2001 with program services beginning with the Fall 2001 academic term.

Project Period for Absolute Priority #2 Projects: Up to 36 months. It is the expectation of the Department that all project periods will begin August 1, 2001 with program services beginning with the Fall 2001 academic term.

Budget Requirement: Projects funded under this competition must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

Maximum Annual Award Amount: In no case does the Secretary make an award greater than $500,000 for a single budget period of 12 months for the first 24 months of the award period. For projects addressing Absolute Priority #2, the last 12 months of a 36-month award will be limited to induction services only at a cost not to exceed $60,000 for the third 12-month budget period. The Secretary rejects and does not consider an application that proposes a budget exceeding these maximum amounts or does not budget or plan for induction services.

Page Limit: The application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit the narrative to the equivalent of no more than 75 double-spaced pages, using the following standards:

(1) A ''page'' is 8 ½″ x 11″ (one side only) with one-inch margins (top, bottom and sides).

(2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than three lines per vertical inch).

If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to the cover sheet; the budget section (including the narrative budget justification); the assurances and certifications; or the one-page abstract, appendices, resumes, bibliography, and letters of support. However, all of the application narrative addressing the selection criteria must be included in the narrative section. If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, your application will not be reviewed or considered for funding.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) for the Professional Development Program, the payback provisions of 34 CFR 263.1(b), 263.3, and 263.35 through 263.37. In addition, this program is governed by the notice of final priorities for fiscal year 2000 and subsequent fiscal years as published by the Department of Education in the **Federal Register** on April 28, 2000 (65 FR 25147–25152).

Selection Criteria: The selection criteria are included in full in the application package for this competition. These selection criteria were established based on the regulations for evaluating discretionary grants found in 34 CFR 75.200 through 75.210.

Fiscal Information: Stipends may be paid only to full-time students. For the payment of stipends to project participants being trained, the Secretary expects to set the stipend maximum at $1000 per month for full-time students and $125 allowance per month per dependent during the academic year. The terms ''stipend,'' ''full-time student,'' and ''dependent allowance'' are defined in 34 CFR 263.3.

Competitive Preference: (1) The Secretary will award five (5) additional points to applications for programs that include only Indian individuals as training participants.

Authority: Section 9122(e)(2); 20 U.S.C. 7832(e)(2).

(2) The Secretary will award five (5) additional points to applications submitted by Indian tribes, organizations, and institutions of higher education. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 and includes an Indian tribe, organization or institution of higher education shall be considered eligible to

receive the five (5) additional priority points.

Authority: 20 U.S.C. 7873.

(3) The Secretary will award a total of five (5) additional points to applications submitted by a consortium of eligible applicants that include a tribal college or university and which designate that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR to be considered eligible to receive the five priority points. These competitive preference points are in addition to the five competitive preference points that may be given under the Competitive Priority 2—Preference for Indian Applicants.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its Web site (*http://www.ed.gov/pubs/edpubs.html*) or its E-mail address (edpubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.299B.

Individuals with disabilities may obtain this document in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW, room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–3774. Internet address: Cathie_Martin@ed.gov.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Program Authority: 20 U.S.C. 7832.

Dated: April 3, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–8558 Filed 4–5–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard act.

SUMMARY: Notice is hereby given that on March 31, 2000, an arbitration panel rendered a decision in the matter of *Ken Haney* v. *New Mexico Commission for the Blind (Docket No. R–S/99–3).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b) upon receipt of a complaint filed by petitioner, Ken Haney.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged improper termination of Mr. Ken Haney, a licensed blind vendor, from the Business Enterprise Program of the New Mexico Commission for the Blind, the State licensing agency (SLA).

A summary of the facts is as follows: Until November 1995, the complainant managed and operated a cafeteria at the Levi-Strauss Plant in Roswell, New Mexico, under the SLA's Randolph-Sheppard Vending Facility Program. On November 1, 1995, a representative of the SLA met with the complainant to discuss with him the lack of profitability of the cafeteria and other issues regarding performance. Shortly thereafter, Mr. Haney requested and was granted by the SLA a 6-month leave of absence due to stress and health issues. During this time, complainant's vending license was terminated on November 7, 1995.

On August 16, 1996, complainant requested a full evidentiary hearing on his license termination. Mr. Haney alleges that his delay in requesting a hearing was due to his continuing health problems.

Complainant's request for a hearing concerning his termination from management at the Levi-Strauss cafeteria was denied on September 17, 1996. A request for reconsideration was also denied on November 14, 1996. The SLA alleges that there were no mental or physical circumstances that prohibited Mr. Haney from requesting a hearing within the 15-day time period pursuant to the SLA's rules and

regulations for filing grievances. It is this decision that complainant sought to have reviewed by a Federal arbitration panel. An arbitration hearing on this matter was held on February 2 and 3, 2000.

Arbitration Panel Decision

The central issue before the arbitration panel was whether the actions taken by the New Mexico Commission for the Blind in denying Mr. Haney a full evidentiary hearing were in violation of the due process requirements under the Act (20 U.S.C. 107d–1(a)), the implementing regulations (34 CFR part 395), and applicable State rules and regulations. The panel ruled that complainant was essentially terminated for poor performance in the operation of the cafeteria, but waited for over 8 months before requesting an administrative review or a full evidentiary hearing to contest the termination before the New Mexico Commission for the Blind.

The SLA denied complainant's request for hearing because he failed to ask for a hearing within the 15-day time limit provided under the SLA's rules and regulations.

Based upon the evidence presented, the panel determined that, at all times, the complainant was knowledgeable about the time limits. Further, according to the panel, while he experienced some medical problems after his termination, there was no evidence that he was incapable of understanding or complying with the time limits. Therefore, the panel affirmed the New Mexico Commission for the Blind's denial of the complainant's request for hearing.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 3, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–8556 Filed 4–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard act.

SUMMARY: Notice is hereby given that on January 6, 2000, an arbitration panel rendered a decision in the matter of *Alaska Division of Vocational Rehabilitation* v. *United States Department of Defense, Department of the Army (Docket No. R–S/97–2).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b) upon receipt of a complaint filed by petitioner, the Alaska Division of Vocational Rehabilitation.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document: You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged violation by the United States Department of Defense, Department of the Army (Army), of the priority provisions of the Act by denying the Alaska Division of Vocational Rehabilitation, the State licensing agency (SLA), the opportunity to operate a dining facility at the Fort Richardson, Alaska, Army Installation.

A summary of the facts is as follows: On July 16, 1996, the SLA wrote to the Director of Contracting at Fort Richardson expressing its desire to enter into negotiations for the operation of a dining facility at the Army Installation.

In late November 1996, the SLA learned that a food service contract had been awarded to another contract vendor in Anchorage, Alaska. Subsequently, the SLA appealed this decision and immediately contacted the Army contracting office. The Army contracting office advised the SLA that the Army indeed had awarded the contract to another vendor. Further, the Army declined to consider the SLA's appeal, advising the SLA that the time for appealing awards had passed.

The SLA alleged that the dining facility contract at the Fort Richardson Installation meets the definition of *satisfactory site* under the Act and implementing regulations in 34 CFR 395.1(q). Further, the SLA alleged that the Army contracting office failed to negotiate in good faith.

By this action, the SLA asserted that the Army denied it due process under the Act, and as a result the SLA was not awarded the dining facility contract under the terms of the Act. The SLA filed a request to convene an arbitration panel to hear this complaint. A Federal arbitration hearing on this matter was held on February 11 and 12, 1998.

Following the hearing, post-hearing briefs were submitted by the two panel members representing the SLA and the Army to the Panel Chair. However, after considerable time had elapsed the final award was not submitted by the Panel Chair to the Department of Education (Department). Accordingly, a new Panel Chair was selected in August 1999. The parties determined that it was not necessary to hold another hearing on the matter. It was further agreed that the newly appointed Panel Chair would render an opinion based upon the proceedings and submissions that had already taken place, and input from the two panel members and a final opinion and award would be submitted to the Department.

Arbitration Panel Decision

The central issue before the arbitration panel was whether the Army's alleged failure to negotiate with the SLA in good faith for a dining facility contract at the Fort Richardson Installation constituted a violation of the *satisfactory site* provisions provided by the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations (34 CFR part 395).

The Army contended that military troop dining facility procurement with appropriated funds is not subject to the priority provisions of the Act. The

majority of the panel found that this contention was not consistent with the findings of the Department of Education, the memorandum issued by the General Counsel of the Department of Defense in November 1998, and the Comptroller General's opinion of June 1993, which stated that generally military dining facilities are cafeterias and are indeed included within the scope of and subject to the Act.

Therefore, the majority of the panel ruled that the SLA was correct in asserting that procurements with appropriated funds are equally subject to the priority provisions of the Act as are procurements with non-appropriated funds. Similarly, the panel ruled that military dining facilities have been considered to come within the definition of *cafeterias* as defined in the Act and by administrative interpretation.

However, the panel concluded that the Act's priority is not applicable if the contract is for discrete services rather that the overall ''operation'' of the dining facilities. The facts of the case supported the Army's decision to give the contract to the other vendor and not to the SLA. Specifically, the majority of the panel determined that, although the Army contracted out certain functions, it retained overall operation of the dining facility and operated it on an in house basis. Thus, the panel concluded that the factual setting of the Fort Richardson dining contract did not constitute the operation of a cafeteria, which would trigger the priority provisions of the Act. Moreover, the panel majority ruled that no vending occurred and no concessions were involved in the Fort Richardson dining contract. Consequently, the contract was not an entrepreneurial activity of the type contemplated by the Randolph-Sheppard Act.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 3, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–8557 Filed 4–5–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Bonneville Power Administration

Wallula Power Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare a joint National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) EIS in cooperation with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for an electrical interconnection including a new 29-mile 500-kilovolt (kV) transmission line associated with a proposed power plant. BPA is the lead Federal agency under NEPA and EFSEC is the lead Washington State agency under SEPA. The Wallula Power Project is a 1,300-megawatt (MW) generating station proposed by Newport Northwest, LLC (Newport Northwest) that would be located near Wallula in Walla Walla County, Washington. Newport Northwest has requested an interconnection and upgrade to BPA's transmission system that would allow firm power delivery to customers in the Pacific Northwest. BPA proposes to execute an agreement with Newport Northwest to provide the interconnection and firm power transmission.

ADDRESSES: To be placed on the project mailing list, including notification of proposed meetings, call toll-free 1–800–622–4520, name this project, and leave your complete name and address. To comment, call toll-free 1–800–622–4519; send an e-mail to the BPA Internet address *comment@bpa.gov;* or send a letter to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–4749; or e-mail *tcmckinney@bpa.gov.* Additional information can be found at BPA's web site: *www.bpa.gov.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental consequences of the proposed project, including:

- The interconnection agreement that BPA proposes with Newport Northwest;
- The construction and operation of the power plant;
- The construction and operation of a 5.9-mile, 20-inch-diameter gas line to tie into Pacific Gas & Electric (PG&E) Gas Transmission Northwest's (GTN) pipeline;
- The construction and operation of an interconnection consisting of 4.3 miles of 500-kV line plus a substation; and
- The construction and operation of a new 500-kV transmission line from the interconnection to the McNary switching station, roughly paralleling the existing 500-kV line from Lower Monumental Dam to McNary Dam.

Later this spring, an open house and public information meeting will be conducted by BPA, EFSEC, and Newport Northwest to discuss the project, associated BPA transmission interconnection and upgrades, and topics to be addressed in the EIS. At least two weeks' notice will be provided to interested parties concerning the time and location of this meeting.

After July 2001, one or more EIS scoping meetings will be held, and a 45-day comment period will be announced, during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. A 30-day notice of the meeting(s), including time and location, will be provided to interested persons. At the meeting(s), BPA and EFSEC will answer questions and accept oral and written comments.

Receiving comments from interested parties will assure that BPA and EFSEC address in the EIS the full range of issues and potentially significant impacts related to the proposed project. When completed, the Draft EIS will be circulated for review and comment, and BPA and EFSEC will hold at least one public comment meeting on the Draft EIS. BPA and EFSEC will consider and respond in the Final EIS to comments received on the Draft EIS.

Proposed Action. The Wallula Power Project would be a gas-fired combined-cycle plant with a nominal generating capacity of 1,300 MW. The plant site would be located on 175 acres of land that is zoned for industry and which is located on the east side of U.S. Highway 12, between the J.D. Simplot Feedlot and the Boise Cascade Wallula Mill.

Natural gas would be burned in a gas turbine engine, in which the expanding gases from combustion would turn the turbine's rotor, driving a generator to produce electrical energy. Hot exhaust from the gas turbine would be used to boil water, using a heat recovery steam generator (HRSG). Steam produced by the HRSG turns a steam turbine, that

would connect to another generator, producing additional electrical energy.

Water would be required to generate steam and cool the steam process, as well as for sanitary uses. The proposed power plant would require an average water consumption rate of up to 6,000 gallons per minute, which would be supplied from various sources including an on-site well being developed by the Port of Walla Walla.

Water discharges, primarily consisting of blowdown from the cooling towers, would be regulated under a Washington Department of Ecology permit or through the use of onsite disposal methods.

The proposed Wallula Power Project would deliver electricity to the regional power grid through an interconnection and a new 500-kV transmission line paralleling the existing Lower Monumental-McNary transmission line. BPA would also modify the existing McNary Substation.

The power plant and the gas and power interconnections would be located within Walla Walla County, Washington. Approximately 7 miles of the new 500-kV transmission line would be located in Walla Walla County with the remaining 22 miles in Umatilla County, Oregon.

Responsibility for construction and operation of the new facilities is principally with Newport Northwest who would build and operate the power plant. However, the interconnection and the new 500-kV transmission line would be constructed under BPA's management, and BPA would be responsible for the operation and maintenance of these facilities. GTN would build and operate the proposed 5.9-mile gas pipeline that would supply fuel to the power plant.

Process to Date. BPA is the lead Federal agency for the joint NEPA/SEPA EIS, and EFSEC is the lead Washington State agency. EFSEC has already held open houses introducing the Wallula Power Project to interested parties in Walla Walla County. Subsequent to these meetings, BPA determined that a new 500-kV transmission line was necessary for firm power delivery on the existing transmission system. Newport Northwest will prepare an Application for Site Certification and submit it to EFSEC in July 2001. This initial application will address the Wallula Power Project in detail. BPA and EFSEC will conduct joint scoping meetings after receipt and preliminary review of the initial submission.

Alternatives Proposed for Consideration. Alternatives thus far identified for evaluation in the EIS are (1) the proposed actions, and (2) no action. Other alternatives may be identified through the scoping process.

Identification of Environmental Issues. EFSEC will prepare an EIS consistent with its responsibilities under Chapter 80.50 of the Revised Code of Washington and Chapter 197–11 of the Washington Administrative Code. BPA has determined in a System Impact Study requested by Newport Northwest that, for firm transmission service, the construction of 29 miles of 500-kV transmission line may be required. Such an action triggers a need for BPA to prepare an EIS. Therefore, BPA and EFSEC intend to prepare a joint NEPA/SEPA EIS addressing both the power plant and the associated electric power interconnection and transmission facilities. The principal issues identified thus far for consideration in the Draft EIS are (1) air quality impacts, (2) noise impacts from plant operation, (3) aesthetic and visual impacts, (4) socio-economic impacts, (5) wetlands and wildlife habitat impacts, and (6) cultural resource impacts. These issues, together with any additional significant issues identified through the scoping process, will be addressed in the EIS.

Issued in Portland, Oregon, on March 26, 2001.

Steven G. Hickok,

Acting Administrator and Chief Executive Officer.

[FR Doc. 01–8509 Filed 4–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN01–5–000]

Public Utilities Commission of the State of California v. El Paso Natural Gas Company, El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company; Order of Investigation

Issued April 2, 2001.

Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt.

Pursuant to the authority of 18 CFR 1.b (2000) and at the recommendation of FERC's General Counsel, the Commission is instituting a formal, non-public investigation into the apparent disclosure of non-public information and/or documents filed in Docket No. RP00–241–000. As discussed below, the Chief Administrative Law Judge (Chief ALJ) is designated to conduct the investigation and to report the results of the investigation to the Commission, along with any recommended remedies, within 30 days of the date of issuance of this order.

On April 4, 2000, the Public Utilities Commission of the State of California (CPUC) filed a complaint under section 5 of the Natural Gas Act (NGA) [1] against El Paso Natural Gas Company (El Paso Pipeline), El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company [2] (jointly, El Paso Merchant). The complaint asserts, *inter alia*, that three transportation contracts between El Paso Pipeline and El Paso Merchant for approximately 1,220 MMcf/day of firm capacity to California (El Paso Contracts) raise issues of possible affiliate abuse, of anti-competitive impact on the delivered price of gas and the wholesale electric market in California.

The procedural background of this proceeding is fully described in the Commission's Order Denying Rehearing and Affirming Protective Order that was issued January 10, 2001 (January 10, 2001 order) [3] and will be addressed in this order only briefly. On June 28, 2000, the Commission issued an Order on Complaint Requiring Responses to Data Requests (June 28, 2000 order).[4] Pursuant to that order and the terms of a confidentiality agreement, El Paso Pipeline and El Paso Merchant provided to CPUC and filed with this Commission under seal certain information in response to the data requests approved by the Commission. El Paso Pipeline and El Paso Merchant sought privileged treatment of the information pursuant to section 388.112 of the Commission's regulations (18 CFR 388.112 (2000)).

On August 31, 2000, CPUC filed a motion for a protective order, asserting that other parties to this proceeding should be given access to the information provided to CPUC and this Commission in compliance with the June 28, 2000 order. On September 15, 2000, the Commission issued the requested protective order (September 15, 2000 Protective Order).[5]

In the January 10, 2001 order, the Commission, *inter alia*, required El Paso Merchant to provide Protected

[1] 15 U.S.C. § 717d (1994).

[2] Effective January 1, 2001, El Paso Merchant Energy Company changed its name to El Paso Merchant Energy, L.P.

[3] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 94 FERC ¶ 61,021 (2001).

[4] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 91 FERC ¶ 61,312 (2001).

[5] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 92 FERC ¶ 61,225 (2000).

Materials [6] to parties that executed the Protective Order and appropriate Non-Disclosure Certificates (January 10, 2001 order).[7] After reviewing the Protected Materials, Southern California Edison Company, Pacific Gas & Electric Company, and Southern California Gas Company filed comments.

On March 26, 2001, an article entitled ''Deal for Use of Gas Pipeline Stirs Dispute on Competition'' was featured in *The New York Times*. The article makes detailed references to ''sealed documents'' filed in Docket No. RP00–241–000 and obtained by *The New York Times*. Such references have raised issues of whether improper disclosure of Protected Materials or otherwise non-public materials has occurred.

The Commission is instituting an investigation to determine whether improper disclosure of Protected Materials or otherwise non-public materials has occurred and whether the September 15, 2000 Protective Order, any Non-Disclosure Certificates executed pursuant to the September 15, 2000 Protective Order or the Commission's regulations at sections 388.112 and 3c.2 have been violated (18 CFR 388.112 and 3c.2 (2000)). In conducting the investigation, the Chief ALJ has all powers conferred under section 1.b of the Commission's regulations, including the authority conferred under sections 1b.13 and 1b.14 (18 CFR 1b.13 and 1b.14 (2000)).

The Commission orders: The Chief ALJ shall conduct a formal, non-public investigation pursuant to 18 CFR 1b.5 (2000), with all the authority conferred under 18 CFR 1.b (2000), including the authority to subpoena witnesses conferred in 18 CFR 1b.13 and 1b.14 (2000), as discussed in the body of this order. The Chief ALJ shall report non-publicly the results of the investigation to the Commission, along with any recommended remedies, within 30 days of the date of issuance of this order.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8488 Filed 4–5–01; 8:45 am]

BILLING CODE 6717–01–M

[6] Under paragraph 2 of the September 15, 2000 Protective Order, ''[a] Participant may designate as protected those materials which customarily are treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury.''

[7] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 94 FERC ¶ 61,021 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–115–000]

Transwestern Pipeline Company; Notice of Application

April 2, 2001.

Take notice that on March 29, 2001, Transwestern Pipeline Company, P.O. Box 3330, Omaha, Nebraska 68103–0330, in Docket No. CP01–115–000 filed an application pursuant to Sections 7(b) and (c) of the Natural Gas Act for permission and approval for Transco to replace mainline compression facilities at four existing compressor stations in Arizona, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Transwestern proposes to abandon in place twelve existing drivers and compressors, totaling 49,500 horsepower, at Stations 1, 2, 3 and 4; and install operate a 41,500 ISO-rated horsepower turbine centrifugal compressor at each of the four stations. Transwestern also requests, to ensure a smooth transition to the new compressor units, to maintain the ability to operate the existing facilities up to six months after the installation of the new units. It is stated that the new units will require less maintenance activity than the existing units as well as operate more efficiently in flowing more gas through its system.

Transwestern states that result of the project it will be able to provide incremental capacity of approximately 150,000 Mcf per day on its mainline from Thoreau, New Mexico to California, increasing its total capacity to California to 1,240,000 Mcf per day. It is indicated that the proposed modification will enable it to meet the supply and demand imbalance in the California area. Transwestern proposes to place the facilities into service by June 1, 2002. Transwestern estimates the cost for the proposed construction to be approximately $93,300,000, to be financed with internally-generated funds. Transwestern also states that it is not at this time requesting rolled-in pricing for the new facilities, and understands that it will be at risk for the recovery of costs associated with the proposed modifications.

Any questions regarding the application should be directed to Keith L. Petersen, at (402) 398–7421.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 16, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding.

Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination of non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Also, comments protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFT 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8489 Filed 4–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–161–000, et al.]

Haleywest L.L.C., et al.; Electric Rate and Corporate Regulation Filings

March 30, 2001.

Take notice that the following filings have been made with the Commission:

1. Haleywest L.L.C.

[Docket No. EG01–161–000]

Take notice that on March 28, 2001, 2001, Haleywest L.L.C. (Applicant), an Idaho limited liability company, whose address is P.O. Box 171, Laclede, Idaho 83851 filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant intends to lease and operate a facility comprised of three (3), continuously rated 1.6-megawatt generator sets (non-road engines) fired on diesel fuel with a maximum total output of 6-megawatts (the ''Facility''). The Facility is located in Plummer, Idaho. Electric energy produced by the Facility will be sold by Applicant to the wholesale power market in the Northwestern United States.

Comment date: April 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Fountain Valley Power, L.L.C.

[Docket No. EG01–162–000]

Take notice that on March 26, 2001, Fountain Valley Power, L.L.C. (Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant is presently a wholly-owned subsidiary of Enron North America Corp., but is expected to become a wholly-owned indirect subsidiary of Black Hills Energy Capital, Inc.

Applicant stated that it served its application on the following: Public Service Company of Colorado, the Colorado Public Utilities Commission, South Dakota Public Utility Commission, Wyoming Public Service Commission and the Securities and Exchange Commission.

Comment date: April 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy of accuracy of the application.

3. Pinnacle West Energy Corporation

[Docket No. EG01–163–000]

Take notice that on March 28, 2001, Pinnacle West Energy Corporation (PWE) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PWE is a wholly owned subsidiary of Pinnacle West Capital Corporation (PNW) and an associate company of Arizona Public Service Company. PWE was created to serve as PNW's competitive generation affiliate. The eligible facilities to be owned by PWE are a 120 MW natural gas-fired, combined cycle unit that is presently under construction and 10 trailer-mounted generating units with a combined capacity of less than 200 MW.

Comment date: April 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/ online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc. 01–8459 Filed 4–5–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6963–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; ''Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB):

Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey, EPA ICR No. 2019.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 5, 2001.

ADDRESSES: The surveys as they will be received by respondents may be obtained without charge by mailing or e-mailing a request to Dr. Ann Fisher, Pennsylvania State University, AERS, 107 Armsby Building, University Park, PA 16802, email: fisherann@psu.edu; phone: (814) 865–3143. Be sure to include your name, address, telephone number, e-mail if available, and delivery preference (diskette by mail, or e-mail delivery).

FOR FURTHER INFORMATION CONTACT: Dr. Janet L. Gamble, U.S. Environmental Protection Agency, Mail Code 8601D, 1200 Pennsylvania Ave NW., Washington, DC 20460; e-mail: gamble.janet@epa.gov; phone: (202) 564–3387; FAX: (202) 565–0075.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are individuals who agree to participate in the survey. Participation is voluntary. Recruiting will be done by telephone using random-digit dialing to select households and businesses in Cape May County, NJ in a manner described by the abstract below.

Title: Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey (EPA ICR No. 2019.01).

Abstract: The Pennsylvania State University (PSU) in cooperation with the Global Change Research Program (GCRP) in the Office of Research and Development (ORD) of the U.S. Environmental Protection Agency (EPA) is proposing to conduct a survey of individual residents and business managers in Cape May County, New Jersey. The survey will solicit Cape May County (NJ) residents' perceptions about their quality of life, how they prioritize risks to their quality of life, and their judgments about trade-offs among alternative actions that would reduce vulnerability to these risks. The focus will be on risks related to changes in land-use practices such as development of open land, and risks related to the potential for storm damages that could accompany sea-level rise or climate change. The survey approach also will solicit business managers' perceptions of direct and indirect risks from flooding.

This data collection is motivated by the Mid-Atlantic Regional Assessment of the Potential Consequences of Climate Variability and Change (MARA), that showed that many potential impacts from climate change will exacerbate existing environmental stresses, particularly those from economic development and sea level rise. Yet little is known about how individuals and their communities are willing to make trade-offs between protection of nearby ecosystems and local economic development. This is particularly important in coastal communities where a major component of many livelihoods stems from tourism based on ecological features such as migratory bird habitat. Paradoxically, development decisions to accommodate more tourists could decrease the habitat for the ecosystems that attract tourists. This could be compounded by failing to account for climate change and for the sea-level rise that is occurring as Mid-Atlantic coastal areas subside; sea-level rise and climate change could affect both ecosystem habitat as well as developed areas. Decisions by individual citizens, businesses, developers, local planners, and environmental protection agencies could be improved by having information about the relative importance of a range of quality-of-life characteristics, including habitat and infrastructure protection, when compared with economic development. Because Cape May County has many of these features, it is an appropriate test case for identifying preferences about such trade-offs.

The data is being collected by Penn State University in collaboration with EPA/ORD Global Change Research Program, under Cooperative Agreement No. R–82840701–0. This survey is not associated with any rule-making process within the Federal government. Instead, Penn State will use this research to demonstrate the potential usefulness of such an approach for localities that want more information about tradeoffs related to development decisions. For Cape May County, the data will be used to assess the relative importance of quality-of-life characteristics and citizens' willingness to make trade-offs among actions to improve the levels and resiliency of those characteristics. The results will be useful most directly for (and are expected to be used by) the residents of Cape May County. The development, pretesting and revision, implementation, and analysis of the data will demonstrate the usefulness of the questionnaire for implementation by other communities facing similar issues.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The (completely voluntary) survey will have two phases. Phase I will be a 10-minute phone survey, with a component tailored to each of two target groups. Identified through random-digit dialing (RDD), permanent residents and those who visit for a month or more each year (N = 1225) will be asked to rate quality-of-life characteristics, make straight-forward judgments about future development and storm threats, and respond to standard socio-demographic questions. The other target group is a sample (N = 300) of local businesses that will be asked about damages they might experience if a flood occurred, as well as actions they have taken or plan to take to reduce their vulnerability. Data from the business survey will provide context for interpreting the citizen survey. Phase II will be a (20-minute) mail follow-up to the phone survey, sent to residents who express interest in providing judgments comparing combinations of quality-of-life characteristics (N = 600). Its data will provide more depth for the research analysis and for reporting back to Cape May County. The total number of respondents is 2125. The only cost to respondents will be their time, for a total of 454.17 hours. The burden estimates are based on administration of

2125 questionnaires. The total respondent cost estimate is $9,610.24.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 29, 2001.

Arthur F. Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–8493 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6964–3]

Agency Information Collection Activities: Continuing Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): NSPS for Asphalt Processing and Asphalt Roofing Manufacturers; EPA ICR Number 0661.06 and OMB Control Number 2060–0002, expiration date, August 30, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 5, 2001.

ADDRESSES: United States Environmental Protection Agency; Compliance Assistance and Sector Programs Division, 2224A; 1200 Pennsylvania Ave., NW.; Washington, DC, 20460. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual for each ICR in Section B of the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Carolyn Young, (202) 564–7062, fax (202) 564–0009 or down load off the internet at *http://www.epa.gov/icr/icr.htm* and refer to ICR Number 0661.05 and OMB Control Number 2060–0002–NSPS.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are those which are asphalt processing and roofing manufacturers (SIC Codes 2911, 2951, and 2952) which commenced construction, modification, or reconstruction after November 18, 1980, or May 26, 1981 as appropriate.

Title: NSPS Subpart UU: Asphalt processing and asphalt roofing manufacturers; OMB Control Number 2060–0002, expires August 31, 2001.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR part 60, New Source Performance Standards (NSPS), Subpart UU. The respondents of the recordkeeping and reporting requirements are asphalt processing and roofing manufacturers (SIC Codes 2911, 2951, and 2952) which commenced construction, modification, or reconstruction after November 18, 1980, or May 26, 1981 as appropriate.

The control of emissions of particulate matter from asphalt processing and asphalt roof manufacturing requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Particulate matter emissions from asphalt processing and asphalt roof manufacturing are the result of materials handling, fuel combusion, and storage. These standards rely on the reduction of particulate matter emissions by pollution control devices such as electrostatic precipitators, high velocity air filters, or afterburners.

In order to ensure compliance with these standards, adequate recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions. The standards also require reports on initial performance tests.

Under the standard, the data collected by the affected industry is retained at the facility for a minimum of two (2) years and made available for inspection by the Administrator of EPA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection is estimated to average 24 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 86.

Estimated Number of Respondents: 86.

Frequency of Response: Initial start-up.

Estimated Total Annual Hour Burden: 15,629 hours.

Estimated Total Annualized Cost Burden: $3,210,000.

Dated: March 22, 2001.

James Edward,

Director, Compliance Assistance Sector Programs Division,, Office of Compliance.

[FR Doc. 01–8497 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6963–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR) Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following continuing Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Prevention of Significant Deterioration and Non-attainment New Source Review: OMB Control Number 2060–0003, expiration date March 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost, where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 7, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1230.10 and OMB Control No. 2060–0003, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1230.10. For technical questions about the ICR contact Mark Sendzik at (919) 541–5534.

SUPPLEMENTARY INFORMATION:

Title: Prevention of Significant Deterioration and Non-attainment New Source Review, OMB Control Number 2060–0003, EPA ICR Number 1230.10, expiration date March 31, 2001. This is a request for extension of a currently approved collection.

Abstract: Part C of the Clean Air Act (Act)—''Prevention of Significant Deterioration,'' and Part D—''Plan Requirements for Nonattainment Areas,'' require all States to adopt preconstruction review programs for new or modified stationary sources of air pollution. Implementing regulations for State adoption of these two New Source Review (NSR) programs into a State Implementation Plan (SIP) are promulgated at 40 CFR 51.160 through 51.166 and appendix S to part 51. Federal permitting regulations are promulgated at 40 CFR 52.21 for PSD areas that are not covered by a SIP program.

In order to receive a construction permit for a major new source or major modification, the applicant must conduct the necessary research, perform the appropriate analyses and prepare the permit application with documentation to demonstrate that their project meets all applicable statutory and regulatory NSR requirements. Specific activities and requirements are listed and described in the Supporting Statement for the ICR.

Permitting agencies, either State, local or Federal, review the permit application to affirm the proposed source or modification will comply with the Act and applicable regulations. The permitting Agency then provides for public review of the proposed project and issues the permit based on its consideration of all technical factors and public input. The EPA, more broadly, reviews a fraction of the total applications and audits the State and local programs for their effectiveness. Consequently, information prepared and submitted by the source is essential for the source to receive a permit, and for Federal, State and local environmental agencies to adequately review the permit application and thereby properly administer and manage the NSR programs.

Information that is collected and handled according to EPA's policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2). See also section 114(c) of the Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 5, 2000 (65 FR 53716). One written comment was received. The comment is summarized in appendix H to the Supporting Statement for the ICR, and is responded to in the appropriate sections of the Supporting Statement for the ICR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is broken down as follows:

Type of permit action	Major PSD	Major Part D	Minor
Number of sources	320	520	56,500
Burden Hours per Response:			
Industry	839	577	40
Permitting agency	272	109	30

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Industrial plants, State and Local permitting agencies.

Estimated Number of Respondents: 114,820.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 4,715,260.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses.

Please refer to EPA ICR No.1230.10 and OMB Control No. 2060–0003 in any correspondence.

Dated: March 23, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–8494 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6616–8)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements

Filed March 26, 2001 Through March 30, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010099, DRAFT EIS, AFS, ID, Little Weiser Landscape Vegetation Management Project, Implementation, Council Ranger District, Payette National Forest, Adams County, ID , Due: May 21, 2001, Contact: Michael Hutchins (208) 253–0100.

EIS No. 010100, DRAFT EIS, BOP, AZ, Southern Arizona Federal Correctional Facility, Construction and Operation, Pima and Yuma Counties, AZ, Due: May 21, 2001, Contact: David J. Dorworth (202) 514–6470.

EIS No. 010101, FINAL EIS, NOA, Tilefish Fishery Management Plan (FMP), (Lopholatilus chamaeleonticeps), To Prevent Overfishing and to Rebuild the Resource of Tilefish, Located along the Atlantic Ocean, Due: May 07, 2001, Contact: Catherine B. Belli (301) 713–2341.

EIS No. 010102, DRAFT EIS, AFS, MT, Keystone-Quartz Ecosystem Management, Implementation, Beaverhead-Deerlodge National Forest, Wise River Ranger District, Beaverhead County, MT, Due: May 21, 2001, Contact: Jeff Trejo (406) 832–3178.

EIS No. 010103, DRAFT EIS, AFS, MT, Dry Fork Vegetation Restoration Project, To Improve Forest and Watershed Health and Sustainability, King Hill Ranger District, Lewis and Clark National Forest, Cascade and Judith Basin Counties, MT, Due: May 21, 2001, Contact: Jennifer Johnsten (406) 791–7700.

EIS No. 010104, FINAL EIS, NOA, HI, GU, AS, Pelagic Fisheries of the Western Pacific Region, Fishery Management Plan, To Analyze Longline Fisheries, Commercial Troll and Recreational Troll Fisheries, Commercial Pelagic Handliner and Commercial Pole and Line Skipjack Fishery, Hawaii, American Samoa, Guam and Commonwealth of the Northern Mariana Island, Due: May 07, 2001, Contact: Charles Karnella (803) 973–2941.

Amended Notices

EIS No. 010098, DRAFT EIS, BIA, NV, Moapa Paiute Energy Center/ Associated Facilities Construction, Operation and Maintenance of a 760–Megawatt (MW) Baseload Natural Gas-Fired Combined Cycle Power Plant, Land Lease and Water Use Approval, R–O–W Grants, Temporary Use, COE Section 10/404 and EPA NPDES Permits, Moapa River Indian Reservation and BLM Lands, Clark County, NY, Due: May 29, 2001, Contact: Amy L. Heuslein (602) 379–6750. The US Department of the Interior's Bureau of Land Management and Bureau of Indian Affairs are Joint Lead Agencies for the above Project. The above BIA EIS should have appeared in the 03–30–2001 **Federal Register**. The 45–day Comment Period is Calculated from 03–30–2001.

EIS No. 000398, DRAFT EIS, AFS, ID, UT, OR, Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Southwest Idaho Ecogroup, several counties, ID, Malhaur County, OR and Box Elder County, UT , Due: June 15, 2001, Contact: David Rittenhouse (208) 373–4100. Revision of FR Notice Published on 11/24/2000: CEQ Review Period Ending 03/16/2001 has been Extended to 06/15/2001.

EIS No. 000421, DRAFT EIS, COE, CA, Guadalupe Creek Restoration Project, Restore Riparian Vegetation and Native Anadromous Fish Habitat, From Almaden Expressway to Masson Dam, Implementation, Guadalupe River, Santa Clara County, CA, Due: January 22, 2001, Contact: Brad Hubbard (916) 557–7054. Revision of FR Notice Published on 12/08/2000: Officially Withdrawn by letter date 03/20/2001.

EIS No. 010041, DRAFT EIS, FHW, MI, I–94/Rehabilitation Project, Transportation Improvements to a 6.7 mile portion of I–94 from east I–96 west end to Conner Avenue on the east end, Funding and NPDES Permit, City of Detroit, Wayne County, MI, Due: May 11, 2001, Contact: James Kirschensteiner (517) 377–1880. Revision of FR Notice Published on 02/16/2001: CEQ Review Period Ending on 04/02/2001 has been Extended to 05/11/2001.

Dated: April 03, 2001

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–8559 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6616–9)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. DA–COE–F28000–IL Rating EO2, Sugar Creek Municipal Water Supply, Updated Information, Proposed New 1172 Acre Water Supply Reservoir, Construction, COE Section 404 Permit Issuance, City of Marion, Williamson and Johnson Counties, IL.

Summary: EPA expressed environmental objections based on the issues that were raised regarding cumulative impact analysis, cost analysis, recreational use, and legal limitations.

Final EISs

ERP No. F–AFS–L65332–OR Ashland Creek Watershed Protection Project, Proposal to Manage Vegetation, Rogue River National Forest, Ashland Ranger District, City of Ashland, Jackson County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65351–ID East Slate Project, Harvesting Timber, Implementation, Idaho Panhandle National Forests, St. Joe Ranger District, Shoshone County, ID.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65357–ID East Beaver and Miner's Creek Timber Sales and Prescribed Burning Project, Implementation, Caribou-Targhee National Forest, Dubois Ranger District, Clark County, ID.

Summary: No formal comment letter sent to the preparing agency.

ERP No. F–GSA–L81013–OR Eugene/Springfield New Federal Courthouse, Construction, Lane County, OR.

Summary: No comment letter sent on the Final EIS.

ERP No. F–SFW–L36100–WA Tacoma Water Green River Water Supply Operations and Watershed Protection Habitat Conservation Plan, Implementation, Issuance of a Multiple Species Permit for Incidental Take, King County, WA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USN–A10072–00 Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA), To Improved Capability to Detect Quiter and Harder-to-Find Foreign Submarines, Implementation.

Summary: EPA continues to express environmental concerns related to impact on marine mammals.

ERP No. F–USN–E11047–00 USS Winston S. Churchill (DDG 81), Conducting a Shock Trial, Offshore of Naval Stations, Mayport, FL; Norfolk, VA and/or Pascagoula, MS.

Summary: Some environmental impact(s) on resident fishery populations are unavoidable; however, avian/marine mammals in the vicinity of testing should be adequately protected through planned mitigation measures.

Dated: April 03, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–8560 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6962–5]

Designation of Dredged Material Disposal Sites in Rhode Island Sound and Adjacent Waters, Rhode Island and Massachusetts. Intent To Prepare an Environmental Impact Statement

AGENCIES: U.S. Environmental Protection Agency (EPA)—Region I, New England in cooperation with the U.S. Army Corps of Engineers (Corps), New England District.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) to consider the potential designation of one or more long term dredged material disposal sites in the region of Rhode Island Sound under section 102(c) of the Marine Protection, Research and Sanctuaries Act. The EIS will provide an evaluation of the proposed disposal sites in Rhode Island Sound, known as Site 69B, 69A, Site 18, as well as additional alternatives including other possible open water disposal sites in this and adjacent waters, other types of dredged material disposal and management, and the no action alternative.

PURPOSE: In accordance with EPA's Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act documents (FR 63(209): 38045–38047), EPA issues this Notice of Intent to prepare an EIS for the evaluation of Designation of Long Term Dredged Material Disposal Sites in the Rhode Island Sound region, offshore of Rhode Island and Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Rosenberg, Public Affairs Office, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742–2751, (978) 318–8657 email: *larry.b.rosenberg@usace.army.mil* or Ms. Ann Rodney, U.S. EPA—New England Region, One Congress Street, Suite 1100, CWQ Boston, MA 02114–2023, (617) 918–1538, *rodney.ann@epa.gov.* Please contact Ann Rodney should you have special needs (sign language interpreters, access needs) at the above address or our TDY# (617) 918–1189.

SUMMARY: There are many harbors, channels and navigation dependant facilities in Rhode Island and southeastern Massachusetts that must undergo periodic maintenance dredging to ensure safe navigation. Some harbors occasionally must be deepened beyond historical depths to meet changing economic and safety needs. Many of these necessary public and private dredging projects have not been accomplished due to the unavailability of disposal sites for dredged material. In other cases, sites on land have been used and the agency or permit applicant had no alternative but to transport the dredged material outside of the project area, which can often increase the cost of the project substantially. Prior studies directed at resolving the dredged material disposal management problem in this area were limited in scope, addressing only the immediate disposal needs of a project pending at the time. EPA issued a Notice of Intent on a similar action in July 1984. Although that study identified the need for a dredged material site in the Rhode Island/southeast Massachusetts area, local opposition at the time halted the project early in its planning stage.

Historically, only one site in Rhode Island Sound has been extensively used. Dredged material was disposed at a site near Brenton Reef pursuant to an EIS released by the Corps in 1971 for the Providence River Dredging project. Another site in the Sound near Brown's Ledge was proposed and evaluated for the Fall River Improvement Dredging project in 1980, but never used. In 1998, the Corps issued a Draft EIS for the Providence River Maintenance Dredging project that evaluated three sites in Rhode Island Sound: Site 69A, 69 B and Site 18. A final EIS is due in June 2001. If the Providence EIS results in the selection of an ocean site by the Corps, the site may be used only for a 5–10 year period after the site has been selected for the Providence River Maintenance Dredging Project. Designation of a site for long term use must be performed under a separate designation process administered by EPA. The State of Rhode Island is currently in the process of identifying potential sites in Narragansett Bay for use by private marinas in the Bay area. Even if the state effort is successful, it is anticipated that there is need for a larger regional disposal site for bigger projects. Over the last two decades, a number of studies have confirmed the need for a regional site including two needs studies performed for each state in the late 1980's and a Rhode Island Governor directed task force (1993) and Rhode Island commission (1996). In response to recent requests of Governor Almond and Senator Reed, EPA and the Corps will consider designation of a long term disposal site in Rhode Island Sound and adjacent waters under section 102(c) of the MPRSA in a forthcoming EIS. The EIS will evaluate other possible alternatives including other open water disposal sites, other

disposal and management options, and the no action alternative. It must be emphasized here that designation of a site does not by itself authorize or result in disposal of any particular material. It only serves to make the designated site a disposal option available for consideration in the alternatives analysis for each individual dredging project in the area. Each future project must assess whether it meets the ocean disposal criteria for discharge at such a site and demonstrate the need for ocean disposal.

The EPA and the Corps will enter an agreement to undertake evaluation of one or more long term dredged material disposal sites in Rhode Island Sound and adjacent waters under Section 102(c) of the MPRSA. The EPA has the responsibility of designating sites under Section 102(c) of the Act and 40 CFR 228.4 of its regulation. Because of its experience with the Providence project, the Corps, which has been funded for this effort, will administer the technical studies and public participation process of the EIS with EPA oversight.

An EIS will evaluate a range of potential sites in Rhode Island Sound and adjacent waters, and the disposal and management of dredged material, including the no action alternative. The EIS will support the EPA's final decision on whether one or more dredged material disposal sites will be designated under the MPRSA. The EIS will include analysis applying the five general and 11 specific site selection criteria for designating ocean disposal sites presented in 40 CFR Parts 228.5 and 228.6, respectively. The Draft and forthcoming Final EIS for the Providence River Dredging Project will serve as a starting point for further evaluation of sites in the EPA EIS. EPA will incorporate by reference to the extent possible all data and analyses developed by the Corps in the Providence River EIS, as well as supplement this with further studies.

Need for EIS: On October 29, 1998, (63 FR 38045–38047) the EPA published repeal of its May 7, 1994 Policy for Voluntary Preparation of Environmental Impact Statements (39 FR 16186–16187) and notice of a new policy and procedures. The new policy states that EPA will prepare an Environmental Assessment or, if appropriate, an Environmental Impact Statement in connection with Agency decisions where the Agency determines that such an analysis would be beneficial. Among the criteria that may be considered in making such a determination are: (a) The potential for improved coordination with other federal agencies taking related actions; (b) the potential for using an EA or EIS to comprehensively address large-scale ecological impacts, particularly cumulative effects; (c) the potential for using an EA or an EIS to facilitate analysis of environmental justice issues; (d) the potential for using an EA or EIS to expand public involvement and to address controversial issues; and (e) the potential of using an EA or EIS to address impacts on special resources or public health. Having considered these criteria EPA has determined that an EIS for designation of dredged material disposal sites in Rhode Island Sound and adjacent waters would be beneficial.

Alternatives: In evaluating the alternatives, the EIS will identify and evaluate locations within the Rhode Island Sound study area that are best suited to receive dredged material suitable for open water marine disposal. At a minimum, the EIS will consider various alternatives including:

- No-action (*i.e.,* no designation of any sites);
- Designation of one or more ocean sites;
- Designation of alternative open water sites identified within the study area that may offer environmental advantages to the existing sites; and
- Identification of other disposal and/or management options, either in or out of the water, including the potential for beneficial use opportunities for dredged material.

Scoping: Full public participation by interested federal, state, and local agencies as well as other interested organizations and the general public is invited. All interested parties are encouraged to submit their names and addresses to one of the addresses below, to be placed on the mailing list for reviewing any fact sheets, newsletters and related public notices. The Environmental Protection Agency—New England Region and the Corps of Engineers, New England District, will hold two public scoping meetings in May of 2001. The Massachusetts meeting will be held on May 17, 2001 at White's of Westport, 66 State Road, Westport, MA. The Rhode Island meeting will be on May 22, 2001 at the Lighthouse Inn, 307 Great Island Rd, Galillee, Narragansett, RI. Both meetings will begin at 7 p.m. with registration starting at 6 p.m. Details of the history of the project and the alternatives to be considered will be presented. The public is invited to attend and identify issues that should be addressed in the EIS.

Estimated Date of the Draft EIS Release

Summer 2003

Responsible Official: Ira Leighton, Acting Regional Administrator EPA—New England.

Dated: April 3, 2001.

Anne Norton Miller,

Acting Director, Office of Federal Activities.

[FR Doc. 01–8561 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6964–2]

State Activities To Quantify and Reduce Greenhouse Gas Emissions: Assistance Competition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; solicitation of applications.

SUMMARY: Today's document announces the availability of funds and solicits proposals from state agencies involved with climate change and air quality issues, for greenhouse gas (GHG) emissions inventories and GHG mitigation plans. To this purpose, EPA will make available grants of up to $25,000 (for inventories) and up to $75,000 (for mitigation plans) to each recipient in the form of cooperative agreements.

DATES: *Deadline for Intents to Apply*: April 30, 2001.

Proposal Submissions Deadline: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Denise Mulholland, (202) 564–3471.

SUPPLEMENTARY INFORMATION: This solicitation notice falls under the authority of section 103 of the Clean Air Act. The Catalog of Federal Domestic Assistance number for this notice is 66.606.

Contents by Section

I. Eligible Entities

Organizations being targeted for cooperative agreements include but are not limited to state environmental agencies, energy offices, economic development agencies, and public utility commissions. 501(c)(4) entities and profit-makers are not eligible.

II. Background

State governments will be affected by the environmental impacts of climate change. This Request for Proposals (RFP) will enable state authorities : (1) To understand the magnitude and sources of their GHG emissions (inventories—Phase I); and (2) to evaluate, and ultimately implement, policies, technologies and programs that reduce GHG emissions while providing economic and environmental (e.g. clean air) benefits (mitigation plans—Phase II).

For state agencies, changes in climate are likely to make protection of the public's health, environment and economy more difficult. Increased temperatures during the summer are expected to increase the number of ozone exceedances, increase wetland losses through sea level rise, affect ecosystems and impact water resources through changes in precipitation amounts and seasonality. Changes in climate are expected to contribute to increases in heat-related deaths brought on by hotter summers and more or longer heat waves, encourage the proliferation and migration of disease-carrying mosquitoes and increase the incidence of infectious diseases such as encephalitis, malaria, and dengue. From an economic perspective, changes in climate are expected to have their greatest impact on economies based on natural resources, such as agriculture and forestry, as well as recreation and tourism. Changes in climate, because of the likelihood of more extreme weather events, threaten state and regional business sectors and infrastructure, such as roadways, bridges, storm sewers, flood control levees and water supplies.

Current state policies directly affect many sources of GHG emissions, for example, through control of transportation, land use, solid waste disposal, building codes and procurement practices. This control is exercised, for example, by promulgating and enforcing regulations, collecting revenues and establishing utility guidelines. States therefore have the opportunity to reduce GHG emissions while capitalizing on the co-benefits of GHG mitigation actions. Among the co-benefits are creating jobs, developing new markets for environmental technologies, improving air quality, protecting public health, reducing energy costs, reducing landfill costs, etc.

Therefore, EPA's State and Local Capacity Building Branch seeks to support up to 10 state governments with the voluntary development of programs to identify and/or analyze GHG emissions and mitigation options. Through this Notice, EPA seeks proposals for greenhouse gas inventories and mitigation plans to complement existing inventories and plans. Thirty-five states [1] and Puerto Rico have prepared or are in the process of preparing baseline GHG emission inventories by gas and source; EPA provides guidance for preparing inventories (available online at *http://www.epa.gov/ttnchie1/eiip/techreport/volume08/index.html*_). Samples of these inventories are online at *http://yosemite.epa.gov/globalwarming/ghg.nsf/emissions/StateAuthoredInventories.* Inventories are the foundation for analyzing mitigation options and developing a state action plan. Twenty-six states [2] and Puerto Rico have completed or are preparing state action plans; EPA provides a guidance book for preparing action plans (available online at *http://www.epa.gov/globalwarming/publications/reference/stateguidance/index.html*). Samples of these action plans are available online at: *http://yosemite.epa.gov/globalwarming/ghg.nsf/actions/StateActionPlans.* In order to broaden the base of information available about state greenhouse gas emissions and potential mitigation options, OAP will give priority to proposals for inventories and action plans that do not duplicate existing work and that do incorporate clean air and other co-benefits.

III. Overview and Deadlines

A. Overview

In today's Notice, OAP is soliciting proposals for state greenhouse gas inventories and mitigation plans. These will enable states to understand the magnitude and sources of their GHG emissions and to evaluate, and eventually implement, voluntary programs to reduce those emissions while achieving economic and environmental co-benefits. OAP is particularly interested in proposals that result in new partnerships, involve an array of state agencies and stakeholders, and address the links between clean air and climate change.

Interested persons can obtain copies of this solicitation at no charge by accessing EPA's Global Warming website at: *http://www.epa.gov/globalwarming/visitorcenter/decisionmakers/index.html*

B. Deadlines

In order to efficiently manage the selection process, the Office of Atmospheric Programs requests that an informal ''Intent to Apply'' be submitted by April 30, 2001. (Please provide project title or subject and email address and indicate if you plan to take part in either of the informational conference calls). An ''Intent to Apply'' simply states in the form of e-mail, phone, or fax that your organization intends to submit a proposal to be received by the deadline. Submitting an ''Intent to Apply'' does not commit an organization to submit a proposal. The ''Intent to Apply'' is an optional submission; those not submitting an ''Intent to Apply'' may still apply by the deadline.

The deadline for submitting completed proposals (original and one copy) is May 31, 2001. (Instructions for submitting Intents to Apply and Proposals are found in section IX below.) The Office of Atmospheric Programs expects to complete the Evaluation/Selection process and make recommendations to the grants office in July 2001. Applicants will be notified if they have been recommended for funding by July 31, 2001. Agreements will be issued in August/September, 2001.

To ensure that every agency interested in participation has an opportunity to gain any needed additional information useful to the application process, OAP has scheduled two sets of conference calls. The first pair of calls is primarily intended to help agencies decide whether this competition is appropriate for them prior to the deadline for submitting an Intent to Apply. The second pair of calls is intended to assist agencies with questions about the proper completion and submission of their proposals. The content of the calls is entirely dependent upon the questions asked. The dates and times of these calls, with the call-in phone numbers and access codes, are:

Wednesday, April 18, from 4:00–5 p.m., EST (phone number: (202) 260–7280; access code: 8901#)

Thursday, April 19, from 4:00–5 p.m., EST (phone number: (202) 260–7280; access code: 8901#)

[1] Current Phase I states: Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina , Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Virginia, Washington and Wisconsin.

[2] Current Phase II states: Alabama, California, Colorado, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Jersey, New Hampshire, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Washington and Wisconsin.

Wednesday, May 9, from 3:00–5 p.m., EST (phone number: (202) 260–8330; access code: 0765#)
Thursday, May 10, from 2:30–4:30 p.m., EST (phone number: (202) 260–1015; access code 3661#)

Questions and answers from the conference calls will be summarized and posted as soon as possible on the EPA Global Warming website; the precise web location of the summaries will be announced at http://www.epa.gov/globalwarming/visitorcenter/decisionmakers/index.html.

In order to ensure that all applicants have access to the same information, the only forums for posing substantive questions on the competition are these conference calls. Except for responses to procedural questions (e.g. due dates, proposal formats), EPA will not provide other assistance prior to final submission of applications.

IV. Funding Issues

For FY01, approximately $250,000 in funding will be available for approximately 4 to 10 cooperative agreements to develop climate activities at the state levels. The two focuses of cooperative agreements for FY01 are:

- Greenhouse Gas Emission Inventories for the year 1990 and the most current year for which data are available. Funds available from EPA: up to $25,000 per cooperative agreement; 1 to 10 cooperative agreements expected to be awarded.
- Action Plans: analysis of greenhouse gas mitigation options and their co-benefits. Funds available from EPA: up to $75,000 per cooperative agreement; 1 to 3 cooperative agreements expected to be awarded.

Matching funds are not required.

V. Selection Criteria

Each eligible proposal will be evaluated according to the criteria set forth below. Proposals which are best able to directly and explicitly address the primary criteria will have a greater likelihood of being selected as a recipient for the assistance competition discussed in today's notice. Each proposal will be rated under a points system, with 65 points possible for inventories and 130 points possible for action plans.

The proposals will be ranked according to the following criteria and maximum point allocation:

EVALUATION CRITERIA

Criterion	Maximum points per criterion for phase	
	I	II
Workplan, including evaluation plan and time frame, that is detailed and reasonable. This should include a clearly-stated and appropriate budget	20	20
Project is to be performed by state environmental agencies, energy offices, economic development agencies, and public utility commissions or combinations of agencies. Projects by organizations that support the efforts of such agencies will also be considered provided that there will be significant involvement of state agencies	10	10
Evidence of multi-stakeholder involvement, such as the creation of a work group that will meet regularly to facilitate project success	20	20
A complete and reasonable outreach plan to make the report available to the public. Coordination with other entities (non-profits, private sector, state agencies, local agencies) on an outreach plan is encouraged	10	10
Geographic representation. Preference will be given to areas of the country that are performing fewer activities to reduce GHG emissions. Projects should also demonstrate sustainability after cooperative agreement funds have been expended	5	5
Consideration of clean air benefits (SO_2, NO_X, particulate matter, volatile organics, CO, O_3, etc) resulting from greenhouse gas mitigation options. Inclusion of co-benefits information in education and outreach efforts	N/A	10
Calculation of potential GHG emission reductions and other co-benefits such as jobs created or energy savings. Calculations should include annual benefits by completion date of project, by the year 2010 and by the year 2020. Support documentation must be submitted and should define and justify assumptions (e.g., market penetration rates)	N/A	20
Mechanism to monitor and report annual recommendations/results (tons, economic benefits, outreach results, etc) after the project ends	N/A	15
Completion of Phase I for 1990 and most current year GHG data is available	N/A	20
Total points possible	65	130

VI. Evaluation and Selection

Each proposal will be evaluated by a team chosen to address a full range of climate change and air quality concerns and EPA program expertise. The team will base its evaluation solely on the criteria identified in this Notice. Completed evaluations will be referred to a Selection Committee of OAP managers who are responsible for final selection. Applicants will be notified promptly after this process regarding their proposal's status.

Proposals will be reviewed and agreements will be issued according to the following schedule:

RFP issued: April 4, 2001.
Intent to Apply: April 30, 2001.
Proposals deadline: May 31, 2001.
Review: June 2001.
Recommendations: July 2001.
Notification letters mailed: by July 31, 2001.
Agreements issued: August–September 2001.

VII. Proposals

The proposal must be submitted with the completed federal grant application forms and be a maximum of fifteen (15) pages (no less than 1.5 line spacing, no less than 12 pt font, 1 inch margins), excluding federal forms. The complete grants application package can be downloaded from: *http://www.epa.gov/region4/grantpgs/grants.htm.* The proposal should conform to the following outline:

1. Title
2. Applicant (Organization) and contact name, phone number, fax and e-mail address
3. Summary of funds requested from EPA
4. Project period: beginning and ending dates (for planning purposes, applicants should assume funds will be available in August or September 2001). Projects must be completed within two years of award date.
5. Project purpose: goals and objectives
6. Supporting and/or coordinating agencies and private sector parties and their roles
7. Previous or current climate change activities and their status.

8. Outreach and education plan and participants
9. Description of results and products
10. Methods for calculating GHG emission reductions and economic and environmental co-benefits, including clean air benefits (Phase II only)
11. Project evaluation plan—including mechanism for monitoring and reporting future results (Phase II only) on an annual basis
12. Workplan—The narrative workplan should not exceed 5 pages and should include:
(a) detailed description of all tasks;
(b) dates of initiation and completion;
(c) products and deliverables; and
(d) proposed budget for each task
13. Report Schedule: Acknowledgement of quarterly report requirement (schedule established by EPA) and planned final report submission date
14. Budget: provide a budget for the following categories:
—Personnel
—Fringe Benefits
—Contractual Costs
—Travel
—Equipment
—Supplies
—Other
—Total Direct Costs
—Total Indirect Costs: must include documentation of accepted indirect rate
—Total Cost

VIII. Other Questions

1. Does this funding expire at the end of Fiscal Year 2001? Will two year projects be considered?

Funding does not expire at the end of fiscal year 2001. The budget and cost estimates for two year projects should indicate what will be accomplished in each of the first and second years. The total amount of the grant does not change if the project period extends beyond two years.

2. May an eligible organization submit more than one proposal?

No. Organizations may receive funding for the development of either an inventory or an action plan, but not both.

3. May an eligible organization resubmit a proposal which was previously submitted to another competition for funding, but was not selected?

Yes.

IX. How To Apply

Intents to Apply may take the form of email, fax, or phone call to the program contact, Denise Mulholland, (address listed below; phone: (202) 564–3471; fax: (202) 565–2095; email: *mulholland.denise@epa.gov.*) Please include organization, contact, phone and project title and indicate if you plan to take part in one of the conference calls.

Please submit informal intents to apply by April 30, 2001. (Remember, the Intent to Apply is not required and will have no bearing on the judging process, we encourage it for the benefit of our planning process only. Submission of the Intent to Apply does not commit the applicant to submit a proposal.) Submission of an Intent to Apply or a proposal does not guarantee funding. EPA reserves the right to reject all applications and make no awards.

Completed Application Packages must be postmarked or received by regular or express mail on or before midnight May 31, 2001. Please provide an original and one copy. The application package should be submitted to Denise Mulholland at the following address: *Mailing Address:* OAR Office of Atmospheric Programs, State and Local Capacity Building Branch, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW (Mailcode 6205J), Washington, DC 20460.

Shipping Address: OAR Office of Atmospheric Programs, State and Local Capacity Building Branch, U.S. Environmental Protection Agency, 501 3rd St., NW., room 276, Washington, DC 20460.

Deadline for Completed Final Proposals must be received or postmarked no later than midnight on May 31, 2001.

Authority: 42 U.S.C. 1875(b).

Dated: March 30, 2001.

Paul Stolpman,

Director, Office of Atmospheric Programs, Office of Air and Radiation, Environmental Protection Agency.

[FR Doc. 01–8496 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6963–7]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC).

The National and Governmental Advisory Committees advise the Administrator of the EPA in her capacity as the U.S. Representative to the Council of the North American Commission on Environmental Cooperation. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182 and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the NAAEC. The National Advisory Committee consists of 12 representatives of environmental groups and non-profit entities, business and industry, and educational institutions. The Governmental Advisory Committee consists of 12 representatives from state, local and tribal governments.

The Committees are meeting to discuss issues that the U.S. Government should consider as it prepares for the annual North American Commission for Environmental Cooperation Council of Ministers Session.

DATES: The Committee will meet on Thursday, May 3, 2001 from 9 a.m. to 5 p.m., and on Friday, May 4, 2001 from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 1515 Rhode Island Avenue NW., Washington, DC. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, at (202) 564–9802.

Dated: March 27, 2001.

Mark N. Joyce,

Designated Federal Officer.

[FR Doc. 01–8482 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50884; FRL–6776–6]

Experimental Use Permit; Receipt of Application for Extension/Expansion of an EUP for Bollgard II Cotton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 524–EUP–89, Bollgard II Cotton from Monsanto Company requesting an experimental use permit (EUP) extension/expansion for the plant-pesticide *Bacillis thuringiensis* Cry2Ab protein and the genetic material necessary for its production in cottton (Vector GHBK11). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50884, must be received on or before May 7, 2001.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50884 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Willie H. Nelson, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8682; e-mail address: nelson.willie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons interested in plant-pesticides or those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–50884. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50884 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50884. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

Monsanto Company, 700 Chesterfield Parkway, Saint Louis, Missouri 63198 has requested an extension/expansion of an existing EUP for the plant-pesticide *Bacillus thuringiensis* Cry2Ab insect control protein and the genetic material necessary for its production in cotton (Vector GHBK11).

Monsanto Company has requested an extension/expansion of the existing EUP (524–EUP–89, Bollgard II Cotton) to test 6,200 acres for Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, and Virginia for May 2001 to May 2002.

Cotton seed grown during the EUP is not to be used for food or feed. However, Monsanto Company has indicated that they intend to apply for a tolerance exemption for the Cry2Ab protein in cotton. Currently, the EUP approval is a crop destruct for Cry2Ab Bt cotton (524–EUP–89).

III. What Action is the Agency Taking?

Following the review of the Monsanto application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 26, 2001.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–8485 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6962–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as Amended, Southern Cross Superfund Site, Hazelwood, Missouri

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comment.

SUMMARY: The Environmental Protiection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended 42 U.S.C. 9622(h). This settlement is intended to resolve the liability of the Chromalloy American Corporation for response costs incurred at the Southern Cross Superfund Site, 143 McDonnell Boulevard in Hazelwood, St. Louis County, Missouri.

DATES: Written comments must be provided on or before May 7, 2001.

ADDRESSES: Comments should be addressed to Steven L. Sanders, Assistant Regional Counsel, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101 and should refer to: *In the Matter of Southern Cross Lumber Company Superfund Site*, EPA Docket No. CERCLA–07–2001–0009.

The proposed administrative cost recovery settlement may be examined in person at the United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101. A copy of the proposed settlement may be obtained from Kathy Robinson, Regional Hearing Clerk, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7567.

FOR FURTHER INFORMATION CONTACT: Steven L. Sanders, Assistant Regional Counsel, Office of Regional Counsel, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7010.

Dated: March 26, 2001.

Michael J. Sanderson,

Director, Superfund Division, U.S. EPA, Region VII.

[FR Doc. 01–8481 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59374; FRL–6768–8]

Approval of Test Marketing Exemption for a Certain New Chemical

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME 01–02. The test marketing conditions are described in the TME application and in this notice.

DATES: Approval of this TME is effective January 31, 2001.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: David Schutz, New Chemicals Prenotice Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–8994; e-mail address: schutz.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TME to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–59374. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

IV. What Action is the Agency Taking?

EPA approves the above-referenced TME. EPA has determined that test marketing the new chemical substance, under the conditions set out in the TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

V. What Restrictions Apply to this TME?

The test market time period, production volume, number of customers, and use must not exceed specifications in the application and this notice. All other conditions and restrictions described in the application and in this notice must also be met. In particular, the submitter agreed that any activity involving potential exposure to dry powdered material would be minimized by use of a NIOSH-approved, full face, positive pressure, air-supply respirator.

TME–01–02.

Date of Receipt: November 3, 2000.

Notice of Receipt: December 12, 2000 65FR239 p 77627.

Applicant: Ilford Imaging USA.

Chemical: (G) copper complex with sulfonated azo dye, sodium salt.

Use: Dye for inkjet printer ink.

Production Volume: 75 kg/yr.

Number of Customers: 5.

Test Marketing Period: 365 days, commencing on first day of commercial manufacture.

The following additional restrictions apply to this TME. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

VI. What was EPA's Risk Assessment for this TME?

EPA identified no significant environmental concerns for the test market substance. EPA did identify a possibility of toxicity to workers from inhalation of powdered substance, but they were mitigated by the submitter's agreement that any activity involving potential exposure to dry powdered material would be minimized by use of a NIOSH-approved, full face, positive pressure, air-supply respirator. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

VII. Can EPA Change Its Decision on this TME in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: January 31, 2001.

Rebecca S. Cool,

Chief, New Chemicals Prenotice Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 01–8486 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59375; FRL–6777–2]

Approval of Test Marketing Exemption for a Certain New Chemical

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–01–08. The test marketing conditions are described in the TME application and in this notice.

DATES: Approval of this TME is effective March 14, 2001.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: David Schutz, New Chemicals Notice

Management Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–8994; e-mail address: Schutz.David@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TME to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–59375. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorize EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

IV. What Action is the Agency Taking?

EPA approves the above-referenced TME. EPA has determined that test marketing the new chemical substance, under the conditions set out in the TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

V. What Restrictions Apply to this TME?

The test market time period, production volume, number of customers, and use must not exceed specifications in the application and this notice. All other conditions and restrictions described in the application and in this notice must also be met.

TME–01–08.

Date of Receipt: December 19, 2000.

Notice of Receipt: February 9, 2001.

Applicant: CBI.

Chemical: CBI-Generic: monoalkyl quaternary ammonium salt.

Use: CBI-Generic: cleaning hydrotrope.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

The following additional restrictions apply to this TME. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

VI. What was EPA's Risk Assessment for this TME?

EPA identified no significant health or environmental concerns for the test market substance under the conditions of negligible release identified by the submitter. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

VII. Can EPA Change Its Decision on this TME in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: March 15, 2001.

Flora Chow,

Chief, New Chemicals Prenotice Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 01–8487 Filed 4–5 –01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6963–8; MM–HQ–2001–0017]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity to Comment Regarding XO Communications, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with XO Communications, Inc. to resolve violations of the Clean Water Act (''CWA''), and its implementing regulations. XO failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for three (3) facilities where they stored diesel oil in above ground tanks. EPA, as authorized by

CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before May 7, 2001.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2001–004, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–3271; fax: (202) 564–9001; e-mail: cavalier.beth@epa.gov.

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (*http://www.epa.gov/fedrgstr*).

I. Background

XO Communications, Inc., a telecommunications company incorporated in the State of Delaware and located at 11111 Sunset Hills Road, Reston, Virginia 20190, failed to prepare SPCC plans for three facilities. XO Communications, Inc. disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations'' (''Audit Policy''), 60 FR 66706 (December 22, 1995), that they failed to prepare SPCC plans for three facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR part 112. EPA determined that XO met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($12,000) and proposed a settlement penalty amount of two hundred and twenty-two ($222). This is the amount of the economic benefit gained by XO, attributable to their delayed compliance with the SPCC regulations. XO Communications, Inc. has agreed to pay this amount in civil penalties. EPA and XO negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on March 19, 2001 (*In Re: XO Communications, Inc.,* Docket No. MM–HQ–2001–0017). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311(b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is May 7, 2001. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: March 26, 2001.

David A. Nielsen,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 01–8495 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6962–8]

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000); Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; corrections.

SUMMARY: EPA published a notice in the **Federal Register** of March 14, 2001 (66 FR 14988), for the Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000). The document contained typographical errors and omissions.

FOR FURTHER INFORMATION CONTACT: William Truman, (404) 562–9457.

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** of Wednesday, March 14, 2001, in FR Doc. 01–6175, make the following corrections:

1. On page 14994, the second column, under the heading ''3. Produced Water'', the following is inserted as the third paragraph:

''Facilities that pass six consecutive produced water toxicity tests will be allowed to change to a frequency of once/every six months; otherwise bimonthly testing shall continue''

2. On page 14996, the third column, the first table, correct the title to read:

''4.—PRODUCED WATER CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR WATER DEPTHS OF LESS THAN 200 METERS''.

3. On page 14998, Table 2, under the heading ''Measurement frequency'' for ''Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added.'', correct ''1/week'' to read ''Once/day when discharging''.

4. On page 14999, Table 3, under the heading ''Measurement frequency'' for ''Miscellaneous discharges of seawater and freshwater to which treatment

chemicals have been added.'', correct ''1/week'' to read ''Once/day when discharging''.

Dated: March 14, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–8483 Filed 4–5–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, April 10, 2001, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum re: Petition to Convert General Counsel Opinion No. 12—Engaged in the Business of Receiving Deposits Other Than Trust Funds—to a Regulation.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 3, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–8632 Filed 4–4–01; 1:14 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 30, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Rockhold Bancorp, Kirksville, Missouri; to acquire 25 percent of the voting shares of Rockhold Bancorp, Kirksville, Missouri, and thereby indirectly acquire voting shares of La Plata Bancshares, Inc., La Plata, Missouri, and La Plata State Bank, La Plata, Missouri.

Board of Governors of the Federal Reserve System, April 2, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–8450 Filed 4–5–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 20, 2001.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wells Fargo & Company, San Francisco, California; to acquire ACO Brokerage Holdings Corporation, Chicago, Illinois, and its subsidiaries, and thereby engage in providing investment and financial advisory services, pursuant to § 225.28(b)(6) of Regulation Y; employee benefits consulting services, pursuant to § 225.28(b)(9)(ii) of Regulation Y; insurance agency activities, pursuant to § 225.28(b)(11)(vii) of Regulation Y; and data processing, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, April 2, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–8451 Filed 4–5–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Government in the Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, April 11, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 4, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–8633 Filed 4–4–01; 1:14 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–22–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Health Hazard Evaluations/Technical Assistance and Emerging Problems (OMB No. 0920–0260)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). In accordance with its mandates under the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health (NIOSH) responds each year to approximately 400 requests for health hazard evaluations to identify potential chemical, biological, or physical hazards at the workplace.

Approximately half of these requests require that NIOSH conduct a short-term field study to adequately address the issues raised by the requester. Since 1970, more than 10,000 of these studies have been completed. The main purpose of these studies is to help employers and employees identify and eliminate occupational health hazards. Ninety-five percent of these investigations respond to specific requests for assistance from employers, employees, employee representatives, or other government agencies. The remaining investigations are short-term field investigations initiated by NIOSH because it received information that a chemical, biological or physical agent may be hazardous to workers. In these investigations, NIOSH determines whether the issue warrants more detailed studies. Approximately fifty percent of the field investigations involve interviews or the administration of a questionnaire to the workers. Each questionnaire is specific to that workplace and its suspected diseases and/or hazards; however, questionnaires are derived from standard medical evaluation techniques. NIOSH distributes interim and final reports of the investigations, excluding personal identifiers, to requesters, employers, employee representatives, the Department of Labor (OSHA and MSHA) and, as appropriate, other state and federal agencies. Following the completion of field investigations, NIOSH administers follow-back questionnaires to employer and employee representatives at the workplace to assess program effectiveness and identify areas for improvement. Because of the large number of investigations conducted each year, the need to respond quickly to requests for assistance and the diverse nature of these investigations, NIOSH requests clearance for data collection in these investigations. The estimated annual burden hours are 4,093.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Employees (initial interviews)	4,200	1	15/60
Employees (questionnaires interviews)	5.250	1	30/60
Employees (follow-back questionnaires)	500	[1] 1	10/60
		[1] 1	15/60
		[2] 1	15/60
Employees (follow-back questionnaires)	200	[1] 1	10/60
		[2] 1	15/60

[1] (Year 1)
[2] (Year 2)

Dated: March 30, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–8458 Filed 4–5–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Developmental Disabilities Protection and Advocacy Statement of Objectives and Priorities.

OMB No.: 0980–0270.

Description: Required by federal statute and regulation. Each State Protection and Advocacy System must prepare and submit to public comment a Statement of Objectives and Priorities (SOP). The final version of this SOP for the coming fiscal year is submitted to ADD. The information in the SOP will be aggregated into a national prospective profile of where Protection and Advocacy systems are going. It will provide ADD with an overview of program direction, and permit ADD to track accomplishments against objectives/targets, permitting the formulation of technical assistance and compliance with GPRA.

Respondents: State and Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
P&A SOP	57	1	44	2,508
Estimated Total Annual Burden Hours				2,508

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 2, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–8456 Filed 4–5–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Developmental Disabilities Protection & Advocacy Program Performance Report.

OMB No.: 0890–0160.

Description: Required by federal statute. Each State Protection and Advocacy System must prepare and submit a Program Performance Report for the preceding fiscal year of activities and accomplishments and of conditions in the State. The information in the Annual Report will be aggretated into a national profile of Protection and Advocacy Systems. It will also provide ADD with an overview of program trends and achievements and will enable ADD to respond to administration and congressional requests for specific information on program activities. This information will also be used to submit an Annual Report to Congress as well as to comply with requirements in GPRA.

Respondents: State and Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
P&A PPR	57	1	44	2,508
Estimated Total Annual Burden Hours				2,508

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) was to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 2, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–8547 Filed 4–5–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0131]

Guidance for Hospitals, Nursing Homes, and Other Health Care Facilities; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Hospitals, Nursing Homes, and Other Health Care Facilities.'' This guidance is intended to alert hospitals, nursing homes, and other health care facilities of the potentially fatal hazards of medical gas mixups. This guidance makes recommendations that will help hospitals, nursing homes, and other health care facilities avoid the injuries and fatalities that have resulted from medical gas mixups.

DATES: Submit written comments on the guidance by July 5, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Duane S. Sylvia, Center for Drug Evaluation and Research (HFD–325), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–0095, ext. 8, Sylviad@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled ''Guidance on Hospitals, Nursing Homes, and Other Health Care Facilities.'' FDA has received reports during the past 4 years from hospitals and nursing homes involving 7 deaths and 15 injuries to patients who were thought to be receiving medical grade oxygen, but were receiving a different gas (e.g., nitrogen) that had been mistakenly connected to the oxygen supply system. As a result of these reports, FDA has decided to alert hospitals, nursing homes, and other health care facilities to the potentially fatal hazards associated with handling medical gases. The agency also is making recommendations that should help health care facilities avoid the tragedies that result from medical gas mixups.

Because of the potential danger to the public health of medical gas mixups, this guidance is being issued as a Level 1 guidance for immediate implementation, consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). As with other Level 1 guidances for immediate implementation, the agency is soliciting comments from the public. This guidance represents the agency's current thinking on how to avoid potentially fatal medical gas mixups. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm.

Dated: March 29, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–8474 Filed 4–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2248]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidances Entitled ''Effectiveness of Anthelmintics: General Recommendations'' (VICH GL7), ''Effectiveness of Anthelmintics: Specific Recommendations for Bovine'' (VICH GL12), ''Effectiveness of Anthelmintics: Specific Recommendations for Ovine'' (VICH GL13), and ''Effectiveness of Anthelmintics: Specific Recommendations for Caprine'' (VICH GL14); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of four final guidances for industry (Nos. 90, 95, 96, and 97) entitled ''Effectiveness of Anthelmintics: General Recommendations'' (EAGR) (VICH GL7), ''Effectiveness of Anthelmintics: Specific Recommendations for Bovine'' (VICH GL12), ''Effectiveness of Anthelmintics: Specific

Recommendations for Ovine'' (VICH GL13), and ''Effectiveness of Anthelmintics: Specific Recommendations for Caprine'' (VICH GL14). These guidances have been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH). They are intended to standardize and simplify methods used in the evaluation of new anthelmintics submitted for approval to the European Union, Japan, and the United States.

DATES: You may submit written comments at anytime.

ADDRESSES: Copies of the final guidances entitled ''Effectiveness of Anthelmintics: General Recommendations'' (VICH GL7), ''Effectiveness of Anthelmintics: Specific Recommendations for Bovine'' (VICH GL12), ''Effectiveness of Anthelmintics: Specific Recommendations for Ovine'' (VICH GL13), and ''Effectiveness of Anthelmintics: Specific Recommendations for Caprine'' (VICH GL14) may be obtained on the Internet from the CVM home page at http:www.fda.gov/cvm/guidance/guidance.html. Persons without Internet access may submit written requests for single copies of the final guidances to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

You may submit written comments any time on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Thomas Letonja (HFV–135), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7576, e-mail: tletonja@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory recommendations. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical recommendations for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical recommendations for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use for several years to develop harmonized technical recommendations for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical recommendations for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/ New Zealand, and one representative from the industry in Australia/ New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Effectiveness of Anthelmintics

These four guidances are entitled ''Effectiveness of Anthelmintics: General Recommendations'' (VICH GL7), ''Effectiveness of Anthelmintics: Specific Recommendations for Bovine'' (VICH GL12), ''Effectiveness of Anthelmintics: Specific Recommendations for Ovine'' (VICH GL13), and ''Effectiveness of Anthelmintics: Specific Recommendations for Caprine'' (VICH GL14).

In the **Federal Register** of July 16, 1999 (64 FR 38445), FDA published these VICH guidances in draft form, giving interested persons until August 16, 1999, to submit comments. FDA shared the comments with the appropriate VICH Expert Working Group and after considering the comments, the work group submitted the final guidance to the VICH Steering Committee. At a meeting held from November 16 to 19, 1999, the VICH Steering Committee endorsed the four final guidances for industry, VICH GL7, VICH GL12, VICH GL13, and VICH GL14.

VICH GL7 is intended to standardize and simplify the methods used for the effectiveness evaluation of new anthelmintics and generic copies for use in domesticated animals. Animal welfare will benefit by the elimination of duplicate studies that will reduce the number of animals required for necessary studies. Likewise this will benefit the industry by reducing research and development costs. VICH GL12, VICH GL13, and VICH GL14 should be read in conjunction with the EAGR, VICH GL7. The guidances for bovine, ovine, and caprine are part of the EAGR, and the aim of these three final guidances is to: (1) Be more specific for certain issues not discussed in the general guidance; (2) highlight differences with the EAGR on effectiveness data recommendations; and (3) give explanations for disparities with the EAGR.

This final level 1 guidance is being issued consistent with FDA's good guidance practices (21 CFR 10.115; 65 FR 56468, September 19, 2000). These final guidances represent the agency's current thinking on effectiveness recommendations for anthelmintic medicinal products. These guidances do not create or confer any rights for or on any person, and do not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to these guidances. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidances. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding these guidances. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in

brackets in the heading of this document. A copy of the guidances and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 29, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–8452 Filed 4–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 2001.

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry.

Date and Time: May 7, 2001; 8:30 a.m.–5 p.m.; May 8, 2001; 8:30 a.m.–4 p.m.

Place: The Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

The meeting is open to the public.

Purpose: The Advisory Committee shall (1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning activities under section 747 of the Public Health Service Act; and (2) prepare and submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report describing the activities of the Advisory Committee, including findings and recommendations made by the Committee concerning the activities under section 747 of the PHS Act. The Advisory Committee will meet twice each year and submit its first report to the Secretary and the Congress by November 2001.

Agenda: Discussion of the focus of the programs and activities authorized under section 747 of the Public Health Service Act. Draft of the Committee's first report to Congress will be reviewed. Funding issues and recommendations for the future will be addressed.

Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Dr. Crystal Clark, Acting Deputy Executive Secretary, Advisory Committee on Training in Primary Care Medicine and Dentistry, Parklawn Building, Room 9A–21, 5600 Fishers Lane, Rockville, Maryland 20857, phone (301) 443–6326, e-mail *cclark@hrsa.gov.* The web address for the Advisory Committee is http://www.bhpr.hrsa.gov/dm/actpcmd.htm.

Dated: April 2, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–8475 Filed 4–5–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, American Indian/Alaskan Native Community Planning Program, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. number of awards	Project period
American Indian Alaskan Native Community Planning Program ..	July 10, 2001	$1 million	8–10	1 year.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year (FY) 2001 funds for grants to American Indian and Alaskan Native (AI/AN) communities to support community planning and consensus building, leading to the development of local substance abuse treatment system plans. The plans would describe how tribal governments, organizations providing services to urban Indian communities, and other indigenous community organizations will work together to deliver integrated substance abuse treatment and related services, such as HIV/AIDS prevention, mental health services, primary care, and other public health services. The CSAT American Indian/Alaskan Native Planning Grants Program is made up of two types of grants: Phase I, which is the Development of a community planning process; and Phase II, which is the Implementation of a services integration plan. This announcement is

only for Phase I grants. Contingent upon future funding and the accomplishments of Phase I projects, CSAT may issue a future, ''Phase II'' announcement to support implementation of plans developed during Phase I.

Eligibility

Applications may be submitted by Tribes, Tribal governments, or other Tribal authorities, tribal colleges and universities, or by public and domestic private non-profit entities, including faith based organizations, that serve American Indian or Alaskan Native communities.

Availability of Funds

Approximately $1,000,000 will be available in FY 2001 to support 8–10 grants. The average award is expected to range from $100,000 to $150,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds to SAMHSA.

Period of support: Grants will be awarded for a period of 12 months.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Maria E. Burns, Treatment and Systems Improvement Branch, Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–7611, E–Mail: mburns@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E–Mail: ksample@samhsa.gov.

Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro–Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 29, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–8453 Filed 4–5–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of fnding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Competitive Renewal for the Grants to Support Consumer and Consumer Supporter Technical Assistance Centers, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. number of awards	Project period
Technical Assistance Centers Renewal	May 4, 2001	$1,820,000	5	1 year

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of application received. FY 2001 funds for the activity discussed in this announcement were appropriated by Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement application were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Mental Health Services Knowledge Exchange, Network (KEN), P.O. Box 42490, Washington, DC 20015, Telephone: 1–800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds to supplement and extend the five Consumer and Consumer Supporter Technical Assistance Centers comprised of 3 consumer technical assistance centers and 2 consumer supporter technical assistance centers. The purpose of these technical assistance centers is to develop and implement activities that assist in the improvement of mental health service systems at the State and local levels.

Eligibility

The currently funded 3 consumer and 2 consumer supporter technical assistance centers—Consumer Organization and Networking Technical Assistance Center (CONTAC) located in Charleston, West Virginia; National Empowerment Center (NEC), located in Lawrence, Massachusetts; National Mental Health Consumers' Self-Help Clearinghouse located in Philadelphia, Pennsylvania; the National Consumer Supporter Technical Assistance Center at the National Mental Health Association (NMHA) located in Alexandria, VA; and the National Consumer Supporter Technical Assistance Center at the National Alliance for the Mentally Ill (NAMI), located in Arlington, Virginia may apply.

Availability of Funds

It is estimated that a total of $1,820,000 will be available for all awards under this announcement. Each of the 5 technical assistance centers may apply for the same amount (direct and indirect) as their current year 03 award. The actual level of awards will depend on the availability of appropriated funds and the applicant's budget justification.

Period of Support: The award may be requested for one year.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact

For questions on program issues, contact: Risa S. Fox, M.S., L.C.S.W., Division of Knowledge Development & Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–22, Rockville, MD 20857, Telephone: 301–443–3653, E-mail: *rfox@samhsa.gov*.

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rm 13–103, Rockville, MD 20857, (301) 443–9666, E-mail: shudak@samhsa.gov.

Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking

in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 29, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–8454 Filed 4–5–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4652–N–09]

Notice of Proposed Information Collection for Public Comment for the Revitalization of Severely Distressed Public Housing (HOPE VI): HOPE VI Revitalization Application Requirements; HOPE VI Demolition Application Requirements; HOPE VI Revitalization Quarterly Reporting; Certification of Mixed-Finance Procurement

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 5, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who ear to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Revitalization of Severely Distressed Public Housing (HOPE VI): HOPE VI Revitalization Application Requirements; HOPE VI Demolition Application Requirements; HOPE VI Revitalization Quarterly Reporting; Certification of Mixed-Finance Procurement.

OMB Control Number: 2577–0208.

Description of the Need for the Information and Proposed Use: These information collections are required in connection with the publication in the **Federal Register** of a Notice of Funding Availability (NOFA) which announces the availability of $565,00,000, $490,000,000 of which is available for the revitalization of severely distressed public housing under the HOPE VI program. The remaining $75,000,000 is available for HOPE VI Demolition grants.

Eligible public housing agencies (PHAs) interested in obtaining HOPE VI Revitalizing funding are required to submit applications to HUD, as explained in the NOFA. The information collection conducted in the applications enables HUD to conduct a comprehensive, merit-based selection process in order to identify and select the applications to receive funding. With the use of HUD-prescribed forms, the information collection provides HUD with sufficient information to approve or disapprove applications.

Eligible PHAs interested in obtaining HOPE VI Demolition funding are required to submit applications to HUD, as explained in the NOFA. The information collection conducted in the applications enables HUD to conduct a comprehensive selection process in order to identify and select the applications to receive funding. The information collection provides HUD with sufficient information to approve or disapprove applications.

Applicants that are awarded HOPE VI Revitalization funds (''Grantees'') are required to report on a quarterly basis on the sources and uses of all amounts expended for revitalization activities. Grantees use a fully-automated, Internet-based process for the submission of quarterly reporting information. HUD reviews and evaluates the collected information and uses it as a primary tool with which to monitor the status of HOPE VI Revitalization

projects and the HOPE VI Revitalization program.

HUD requires Grantees (PHAs) to submit to HUD the Certification of Mixed-Finance Procurement form if they choose to certify that they have complied with 24 CFR Part 85.36, as permitted by 85.36(g)(3)(ii), in the procurement of program managers and developers. HUD will review and approve/disapprove the Certification form. HUD's approval of the Certification form allows the Grantee to contract with the procured firm and eliminates the need for the Grantee to submit the Request for Proposal (RFP) or Request for Qualifications (RFQ) documents for HUD approval prior to advertisement. Collection of the information in this manner helps to streamline the procurement process and reduce the administrative burden on participating Grantees and HUD staff.

Agency Form Number: HUD–52860–A (HOPE VI Application Data Form); There are no agency form numbers for HOPE VI Demolition Applications, HOPE VI Revitalization quarterly reporting and the Certification of Mixed-Finance Procurement form.

Members of Affected Public: Public Housing Authorities.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response:

For HOPE VI Revitalization Application: 80 respondents, once annually, 190 hours average per response results in a total annual reporting burden of 15,200 hours.

For HOPE VI Revitalization Application Data Form (part of the HOPE VI Revitalization Application above): 80 respondents, once annually, 80 hours average per response results in a total annual reporting burden of 6,400 hours (this annual reporting burden of 6,400 hours is part of the 15,200 hours of annual reporting burden for the HOPE VI Revitalization Application, provided above).

For HOPE VI Budget (part of the HOPE VI Revitalization Application above): 80 respondents, once annually, 6 hours average per response results in a total annual reporting burden of 480 hours (this annual reporting burden of 480 hours is part of the 15,200 hours of annual reporting burden for the HOPE VI Revitalization Application, provided above).

For HOPE VI Demolition Application: 34 respondents, twice annually, 48 hours average per response results in a total annual reporting burden of 3264 hours.

For HOPE VI Revitalization Quarterly Reporting: 148 respondents, 4 times annually, 20 hours average per response results in a total annual reporting burden of 11,840 hours.

For the Certification of Mixed-Finance Procurement form: 40 respondents, once annually, 20 minutes average per response results in a total annual reporting burden of 13 hours.

Grand total: These information collections performed in connection to the HOPE VI program result in an annual total reporting burden of 30,317 hours.

Status of the Proposed Information Collection: Reinstatement, with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 30, 2001.

Gloria Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

HOPE VI Revitalization Application Data Form

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

OMB Approval Pending

Public Reporting Burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this collection of information is mandatory to obtain a benefit. The information requested does not lend itself to confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Attachment 20: *Application Data Form: Cover Sheet*

Existing Development Name(s): _____

Applicant Information

PHA Number: _____

PHA Name: _____

PHA Mailing Address: _____

City, State, Zip: _____ *Main Telephone:* _____

PHA Executive Director: _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

HOPE VI Coordinator: _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

HOPE VI Developer (if any): _____ *Telephone:* _____ *Fax:* _____

HOPE VI Developer Contact: _____ *Email Address:* _____

Program Manager (if any): _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

Additional Partner: _____ *Functional Title:* _____

Additional Partner: _____ *Functional Title:* _____

Existing Development Name(s): _____

Street Address, City, State, Zip: _____

Existing Project Number(s): _____ *Neighborhood /Area of town:* _____

New Development Name: _____ *Congressional District:* _____

Mixed Income Proposed? ___Yes/No___ *Mixed Finance Proposed?* ___Yes/No___

Data Summary

	Existing	*Post-Revitalization*
Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Fee Simple Homeownership and Second Mortgage- excluding rehabilitated units)		
Number of non-public housing, subsidized units (on/off-site, including homeownership)		
Number of market-rate units (no income restrictions)		
Number of other units		
TOTAL NUMBER OF POST DEVELOPMENT UNITS		
Number of units to be rehabilitated (excluding acquisition with rehab)		
Number of newly constructed on-site units (including acquisition with rehab)		
Number of newly constructed off-site units (including acquisition with rehab)		
Number of occupied units (at time of application)		
Number of vacant units (at time of application)		

Attachment 21: *Application Data Form: Existing Units, Occupancy, Vacancy*

Development Name: _____

Existing Housing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted to non-dwelling*	*Demo Planned*
Row	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Detached/ Semi-Detached	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Walkups	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Elevator	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Grand Total						

Attachment 22: *Application Data Form: Relocation, Income, and Non-Dwelling Structures*

Development Name: _____

Relocation/Occupancy

Relocation Strategy	***Planned***
Original households to be provided Section 8 certificates/vouchers	
Original households to be moved within public housing (on and off-site)	
Original households to move to non-assisted housing/unknown	
Total	

Number of Section 8 certificates/vouchers requested/received from HUD for this project:	***Requested***	***Received***

Number of occupied units at time of grant application: _____

Projected number of occupied units at time of demolition application approval: _____

Returning Households	**Planned**
Number of original households estimated to return to revitalized HOPE VI units (both on-site and off-site):	
Number of these households to be housed in new construction	

Household Income	**Existing**	**Post Development**
Average income (as percentage of Median) of public housing residents in development		
Average income (as percentage of Median) of otherwise subsidized residents in neighborhood		
Average income (as percentage of Median) of market-rate residents in the neighborhood		
Resident Profile		
Total number of residents		
Number of children under 18 years of age		
Number of children under 6 years of age		
Number of senior citizens		
Number of individuals with disabilities		

Non-Dwelling Structure Summary				
Proposed non-dwelling structures (please describe, including type of facility and whether proposing new construction or rehabilitation)	*New or Rehab*	*Square Footage*	*Total Cost*	*Cost per Sq. Ft.*

Attachment 23: *Application Data Form: Proposed Unit Mix Post-Revitalization*

Development Name: _____

New Construction (include any acquisition w/rehab) *Rehabilitation*

Row: New						*Row: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Detached/Semi-detached: New						*Detached/Semi-detached: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Walkups: New						*Walkups: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Elevator: New						*Elevator: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Grand Total						Grand Total					

*** ACC units include PH rental, PH/LIHTC, and Affordable Lease/Purchase with HOPE VI and/or PH funds.**

**** Non-ACC units have no PH or HOPE VI funds and will not be under ACC.**

Attachment 24: *Application Data Form: Units, Accessibility and Concentration*

Development Name: _____

Planned Units

Rental Units: ACC							
PH Only		PH/LIHTC		PH/Other		Total ACC	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Rental Units: Non-ACC							
LIHTC		CDBG, HOME, or other subsidy		No Income Restrictions		Total Non ACC	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Homeownership Units											
Affordable Lease/Purchase with HOPE VI and/or PH funds		Affordable Fee Simple Homeownership with HOPE VI and/or PH		Second Mortgage Only with HOPE VI and/or PH funds		Homeownership with other subsidies (No HOPE VI or PH funds)		Market Rate Homeownership (No subsidies)		Total Homeownership	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Other Units (operating subsidy only, etc)							
Type:		Type:		Type:		Total Other Units	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Grand Total	
On-Site	Off-Site

Grand Total - All Units _____

Accessibility

New Construction	Rental Units (including Lease/Purchase) % of Category	Homeownership Units % of Category	Total % of Category
Mobility-Impaired (wheelchair)			
Hearing-Impaired			
Sight-Impaired			
Visitability			

Rehabilitation	Rental Units (including Lease/Purchase) % of Category	Homeownership Units % of Category	Total % of Category
Mobility-Impaired (wheelchair)			
Hearing-Impaired			
Sight-Impaired			
Visitability			

Concentration

	Pre-Development	Post-Development
Density of on-site development (units per acre)		
Percent of very low income households in the development (30% of median or below)		

Attachment 25: *Application Data Form: Self-Sufficiency, Page 1*

Development Name: _____

	During Last 12 Months	At Time of Application	At Grant Award	Projected One Year after Grant Award	Projected Two Years after Grant Award	Projected at Close of Grant
A. Graduation from Public Assistance						
Number of households whose primary monthly source of income is:						
Wages/Salary						
TANF						
Other						
B. Employment/Obstacles to Employment						
Number of TANF participants enrolled in job training programs						
Number of non-TANF participants enrolled in job training programs						
Number of unemployed residents placed in:						
Section 3 jobs						
Non-Section 3 jobs						
C. Economic Development						
Number of resident-owned businesses						
D. Section 3						
Dollar amount of HOPE VI contracts going to Section 3 firms						
E. Education						
Number of residents without a high school diploma or G.E.D.						
Number of residents with a high school diploma, G.E.D., or higher degree						
F. Homeownership						
Number of residents in homeownership counseling						
G. Case Management						
If you have a Family Supportive Services program:						
Number of residents enrolled in FSS program						
Dollar amount in escrow accounts						
H. Youth Programs						
Number of youth participating in youth programs						
Number of children participating in day care programs						
I. Health						
Number of partnerships with healthcare agencies (e.g., clinics, hospitals, universities)						
J. Transportation						
Number of residents who use public transportation to get to work or services						

Attachment 25: *Application Data Form: Self-Sufficiency, Page 2*

Development Name: _____

K. Self-Sufficiency Projected Spending

Planned Spending	HOPE VI Funds	Other Funds	Total
Day Care			
Health Care			
Education			
Job Training			
Business Development Training			
Case Management			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			

TOTAL			

L. Self-Sufficiency: Programs and Partners

List of Self-Sufficiency (CSS) Programs	*List of Self-Sufficiency Partners*

Attachment 26: Application Data Form: Sources and Uses, Page 1

Development Name: _____

Uses ($)*	HOPE VI Uses ($)	+	Non-HOPE VI Uses ($)	=	Total
Administration					
Administration					
Management Improvements					
Management Improvements - Dev					
Management Improvements - CSS					
Acquisition					
Site Acquisition					
Building Acquisition, Turnkey					
Building Acquisition, Rehabilitation					
Building Acquisition, Non-Dwelling					
Building Remediation/Demolition					
Remediation, Dwelling Units					
Demolition, Dwelling Units					
Remediation, Non-Dwelling Units					
Demolition, Non-Dwelling Units					
Demolition, Other					
Site Improvements					
Site Remediation					
Site Infrastructure					
Off-site Improvements					
Construction					
Dwelling Structures - Hard Costs					
Non-Dwelling - Hard Costs					
General Requirements					
Builder's Profit					
Builder's Overhead					
Bond Premium					
Hard Cost Contingency					
Equipment					
Dwelling Equipment					
Non-Dwelling Equipment					
Professional Fees/Consultant Services					
Program Management Services					
Architectural					
Engineering					
Construction Management Services					
Appraisal					
Environmental					
Market Study					
Historic Preservation Documentation					
Other					
Legal					
Organizational					
Syndication					
PHA Outside Counsel					
Other					
Tax Credit					
Accounting					
Tax Credit Application					
Tax Credit Monitoring Fee					
Consultant					
Other					
Page 1 Total	$		$		$

Attachment 26: Application Data Form: Sources and Uses, Page 2

Development Name: _____

Uses ($)*	HOPE VI Uses ($)	+	Non-HOPE VI Uses ($)	=	Total
Other Development Costs (Soft Costs)					
Accounting Fees					
Financing Fees					
Permit Fees					
Title/Recording/Settlement Fees					
Real Estate Taxes During Construction					
Insurance During Construction					
Interest During Construction					
Bridge Loan Interest					
Marking/Rent-up Expenses					
Initial Operating Deficit					
Soft Cost Contingency					
Other					
Relocation					
Relocation Costs					
Developer Fee					
Developer Fee					
Reserves					
Operating Reserve					
Other Reserves					
Non-Development Costs					
Self-Sufficiency (CSS)					
Other Non-Development Costs					
Planning					
Planning Grant					
Page 2 Total	$		$		$
GRAND TOTAL USES:	$		$		$

Total Uses $ _____

Sources ($)	
HUD Funds	
HOPE VI Revitalization	
PH Capital Fund	
Modernization	
PH Development	
MROP	
HOPE VI Planning Grant	
HOPE VI Demolition Grant	
Other HUD Funds	
HOME	
CDBG	
Other	
Total HUD Funds	$
Non-HUD Public Funds	
State Funds	
Local Funds (Non PHA)	
PHA Funds	
Other Funds	
Describe Other	
Total Non-HUD Public Funds	$
Private Funds	
Tax Exempt Bonds	
Taxable Bonds	
Private LIHTC	
Other Equity	
Homebuyer Down Payment	
Donations/Grants	
Private Lender	
Other	
Describe Other:	
Total Private Funds	$

Total Sources $ _____

HOPE VI Budget
Part I: Summary

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0208 (exp.

Public Reporting Burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This information is necessary to provide details on the funds requested by Housing Authorities. The form displays the amount requested, broken down by budget line item, with each use explained on Part II. The requested information will be reviewed by HUD to determine if the amount requested is reasonable and whether the required percentages of capital and supportive services funds are met. Responses to the collection are required by the appropriation under which the HOPE VI grant was funded. The information collected does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to collection of information unless it displays a currently valid OMB control number.

PHA Name	HOPE VI Grant Number
	☐ Original HOPE VI Budget ☐ Revised HOPE VI Budget ☐ Predevelopment Budget

Line No.	Summary by Budget Line Item	Capital Costs	Supportive Services Costs	Total Funds Requested	HUD Approved Funds
1	Total Non-HOPE VI Funds				
2	1408 Management Improvements				
3	1410 Administration				
4	1430 Fees and Costs				
5	1440 Site Acquisition				
6	1450 Site Improvement				
7	1460 Dwelling Structures				
8	1465 Dwelling Equipment—Nonexpendable				
9	1470 Nondwelling Structures				
10	1475 Nondwelling Equipment				
11	1485 Demolition				
12	1495 Relocation Cost				
13	**Amount of HOPE VI Grant** (Sum of lines 2-12)				

Signature of PHA Executive Director

Date (mm/dd/yyyy)

HUD Certification: In approving this budget and providing assistance to a specific housing development(s), I hereby certify that the assistance will not be more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources (24 CFR 12.50).

Signature of Authorized HUD Official

Date (mm/dd/yyyy)

HA Name	HOPE VI Budget **Part II: Supporting Pages**

Work Item Number 1	Budget Line Item Number 2	Statement of Need 3	Description of Proposed/Approved Action and Method of Accomplishment 4	Individual Project Number 5	Total Funds Requested 6	HUD-Approved Funds 7

Instructions for Preparation of Form HUD-52825-A,

HOPE VI Budget Submission:

When requested by HUD, prepare a separate form HUD-52825-A (Parts I and II) for the HOPE VI program, describing the activities which are planned to be undertaken with the HOPE VI funds. Submit the original and two copies (or any lesser number of copies as specified by HUD) of this form to the HUD Field Office. On an as-needed basis, submit a revised form when the HUD-established threshold requires prior HUD approval to revise the HOPE VI Budget.

Part I: Summary

HA Name - Enter the name of the Housing Authority (HA).

HOPE VI Grant Number - Enter the unique HOPE VI Grant number assigned by HUD upon grant approval.

FFY of Grant Approval - Enter the Federal Fiscal Year (FFY) in which the HOPE VI grant is being approved/was approved. (last 2 digits of HOPE VI Grant Number).

Type of Submission - Check the appropriate box and indicate whether the submission is the Original HOPE VI Budget or a Revised HOPE VI Budget (and revision number).

Total Funds Approved:

Line 1 - Enter the amount rounded to the nearest ten dollars, for all work that will be undertaken from non-HOPE VI funds. Enter zero if no work will be undertaken from non-HOPE VI funds.

Lines 2 through 12 - For each line, enter the appropriate amount rounded to the nearest ten dollars, or zero if no work will be undertaken in a particular HOPE VI budget line item.

Line 13 - Amount of HOPE VI Grant - Enter the sum of lines 2 through 12.

Part II: Supporting Pages

1. **Work Item Number** - Number each work item sequentially.
2. **Budget Line Item Number** - Enter the appropriated HOPE VI budget line item which corresponds to the work item described.
3. **Statement of Need**
4. **Description of Proposed/Approved Action and Method of Accomplishment** - For each HOPE VI budget line item listed, provide a statement of need and a description of all work items (physical or management, as applicable) that will be funded with HOPE VI funds, including management improvements, supportive services, administrative costs, equipment, etc. Enter the quantity of the work as a percentage or whole number, Describe administrative costs in sufficient detail to clearly identify items.
5. **Individual Project Number** - Enter the abbreviated (e.g., VA-36-1) of the development where the work items will be undertaken.
6. **Total Funds Requested** - For each work item and HA-wide activity described, enter the total funds requested. Where appropriate, add a reasonable contingency amount to each work item and indicate the percentage.

5.5 The Financial Tab

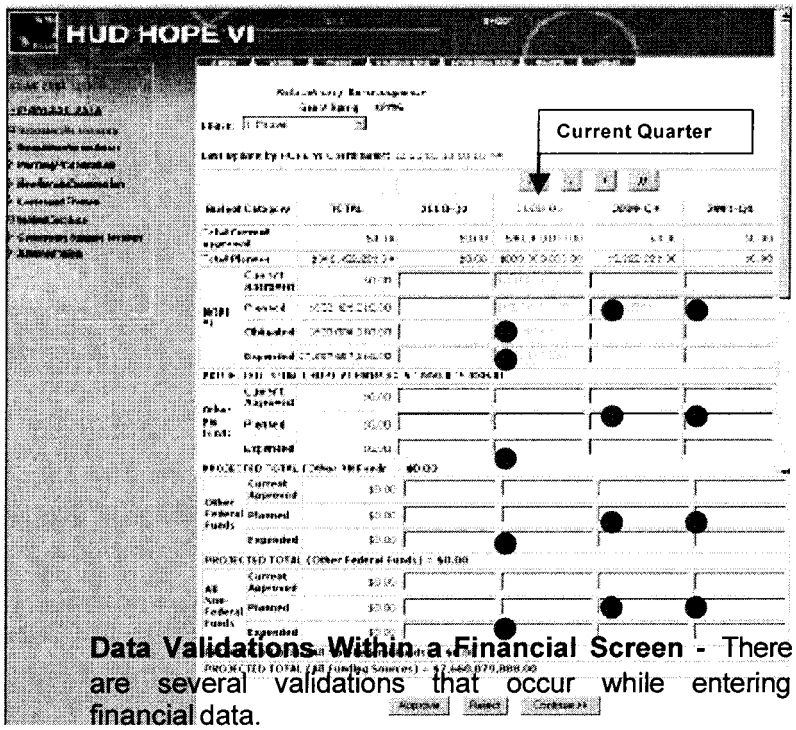
The financial and production sections of the HOPE VI Internet-Based Grant Management Prototype System constitute the majority of the screens within the website, and are where the majority of your data entry will take place. For the quarter ending 9/30/2000, HUD and KPMG Consulting asked each PHA to schedule out their financial activity over the life of the project by year and quarter as well as phase. The intensive effort undergone for that quarter allowed KPMG Consulting to pre-populate the financial screens with all of the information that was reported, thus reducing the reporting burden on the PHAs. Tracking your financial activities over time will allow you to more accurately manage your HOPE VI Grant and all of the funds allocated and expended for the project. You will see that in addition to scheduling out your financial activities, we are asking you to adjust the future budgeted values as your expenditures, future budgets and forecasts become more clearly defined. Doing so will allow KPMG Consulting to provide the PHAs as well as HUD with more detailed and accurate reports that are useful to the everyday user and improve the grant management process.

Tracking your financial activities over time will allow you to more accurately manage your HOPE VI Grant and all of the funds allocated and expended for the project

Data Entry on the Financial Screens - Each time you view a financial screen you have the capability to enter data. At any given time, the only data that can be entered/edited/altered is the following:

- Future Planned Values - you can alter your future scheduled expenditures or future planned values.
- Current Quarter Obligated - during a quarter you may alter this amount as you continue to obligate additional funds.
- Current Quarter Expended - as these are Actual values, you can only enter Expended amounts for the current quarter.

It is important to ensure that all data entered is accurate because you will not have the ability to enter data for periods that occurred in the past.



Once your financial activity is scheduled out, the only data you can alter is marked with red dots. This includes:

- *Current Quarter Obligated*
- *Current Quarter Expended*
- *Future Planned*

Data Validations Within a Financial Screen - There are several validations that occur while entering financial data.

5.6 The Production Tab

The financial and production sections of the HOPE VI Internet-Based Grant Management Prototype System constitute the majority of the screens within the website, and are where the majority of your data entry will take place. For the quarter ending 9/30/2000, HUD and KPMG Consulting asked each PHA to schedule out their production activity over the life of the project by year and quarter. Although this was consistent with the way it had been reported in the past, it was also required that all production activity be broken out by phase as well. The intensive effort undergone for that quarter allowed KPMG Consulting to pre-populate the production screens with all of the information that was reported, thus reducing the reporting burden on the PHAs. Tracking your production activities over time will allow you to more accurately manage your HOPE VI Grant and all of the production for the project. You will see that in addition to scheduling out your production activities, we are asking you to adjust the future planned production values as your project becomes more clearly defined. Doing so will allow KPMG Consulting to provide the PHAs as well as HUD with more detailed and accurate reports that are useful to the everyday user and improve the grant management process.

Tracking your production activities over time will allow you to more accurately manage your HOPE VI Grant and all of the production for the project

you to the first or last quarter where there is production activity scheduled.

In addition, at the top of the screen you will notice a ***Status Statement***, this identifies who was the last user to update or modify the information on the page as well as indicate if there were any action items taken. This to is a tool between the HOPE VI user and HUD to help improve communication during the quarterly process.

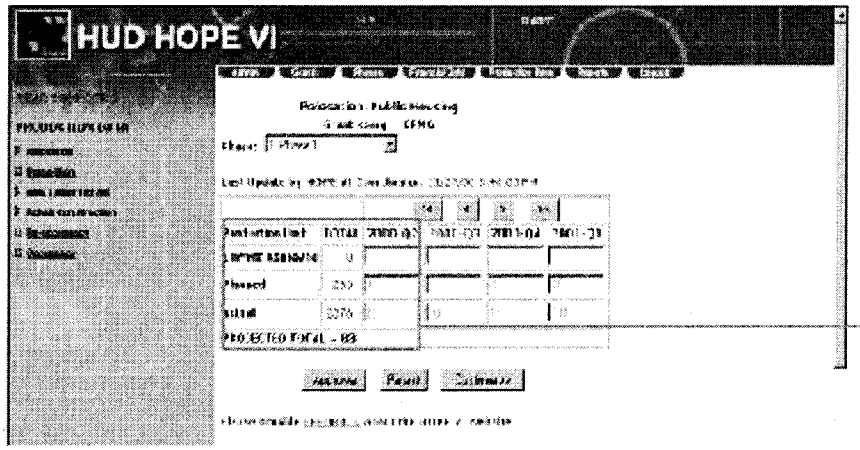
Production Categories - Down the left side of the page you will notice the Production Categories. The production categories reflect the various planned and actual activities associated with production for a HOPE VI Grant. They are broken out into the following:

- Current Approved - This field is another tool that was added to improve the communication between the PHA and HUD. Initially, this field will be populated by KPMG Consulting based on the information that you have entered as past Actual production values and future Planned production values. Moving forward, the Current Approved field will be the HUD GM's tool to regularly review production plans, changes and schedule slippage. Each quarter, the HUD GM will review your actual and future planned production values, if they are reasonable and any variances are explained the GM will approve the values. It will be these Current Approved Values which quarterly activity will be validated against.

- Planned - These are the production activity units that you plan to perform or accomplish in each quarter over the life of the project. In some cases these units are units of production, in other cases such as relocation they are families. You can only enter planned values in future quarters, and as your production levels vary, you should alter your future planned production as needed.

- Actual - This is the actual amount of production activity that was completed for the quarter.

Actual values can also only be entered for the current quarter.



Production Categories and Totals include Current Approved, Planned and Actual Production as well as the Projected Total

NOTE: these totals are for the specific phase that you are in

In addition to the Production Categories listed on the page, there are also several totals displayed. Among the totals listed are the following:

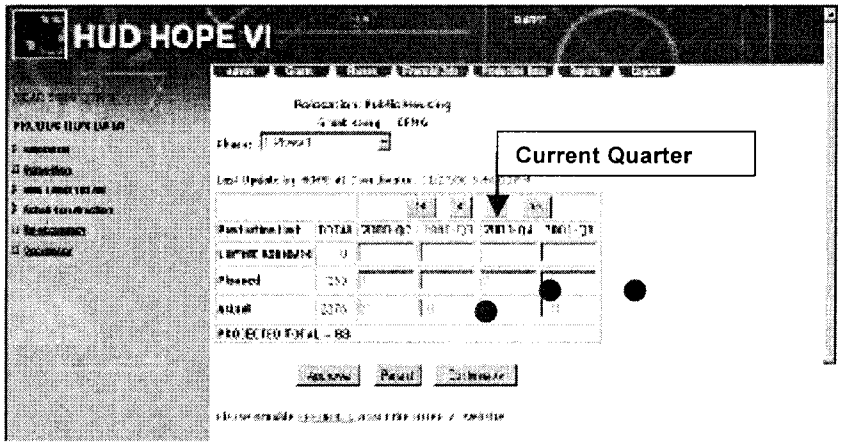
- Total Current Approved - The Total Current Approved aggregates the Current Approved.
- Total Planned - The Total Planned Amount aggregates the Planned values.
- Actual - The Total Actual aggregates all of the actual production to date for the phase.
- Projected Totals - The projected totals are a derived total which gives you the total projected production. The projected total is made up of past and current Actual amounts + future Planned values.

It is important to note that all totals are ONLY for the phase which you are in. If you would like to see totals across all phases it is necessary to go to the ***Reports Tab***.

Data Entry on the Production Screens - Each time you view a production screen you have the capability to enter data. At any given time, the only data that can be entered/edited/altered is the following:

- Future Planned Values - you can alter your future scheduled production or future planned values.
- Current Quarter Actual - You can only enter Actual production amounts for the current quarter.

It is important to ensure that all data entered is accurate because you will not have the ability to enter data for periods that occurred in the past.



Once your production activity is scheduled out, the only data you can alter is marked with red dots. This includes:

- *Current Quarter Actual*
- *Future Planned Values*

Certification of Mixed-Finance Procurement

U.S. Department of Housing and Urban Development
Office of Public Housing Investments

To be completed by Executive Director of Public Housing Authorities

1. Public Housing Authority Name	2. Site Name	3. Procurement of ❑ Program Manager ❑ Developer	4. Date of RFP/RFQ Issuance ____/____/____ mm dd yy
5. Name of PHA Staff Who Attended Mixed-Finance Procurement Training		6. Date of Training ____/____/____ mm dd yy	7. Grant or Project Number

Acting on behalf on the above named Housing Authority as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the named mixed-finance procurement:

I further certify by checking the following that:

❑ Yes ❑ N/A This Public Housing Authority is authorized to certify a mixed-finance procurement, as (a) the above listed staff member attended the HUD Mixed-Finance Procurement training; and (b) this Housing Authority is not troubled or mod troubled and is not otherwise required to submit procurement to HUD for review.

❑ Yes ❑ N/A That the Housing Authority has followed all applicable federal, state, and local laws, as well as its internal procurement procedures, in conducting this procurement.

❑ Yes ❑ N/A That the Housing Authority understands and follows the provision contained in 24 CFR 941.602(d)(1), which states that a PHA may select a partner using competitive proposal procedures for qualifications-based procurement (subject to negotiation of fair and reasonable compensation, including TDC and other applicable cost limitations).

❑ Yes ❑ N/A That the Housing Authority understands and has complied with each of the following provisions of 24 C.F.R. part 85.36:

(b) Procurement standards.

❑ Yes ❑ N/A (1) Grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

❑ Yes ❑ N/A (2) Grantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

❑ Yes ❑ N/A (3) Grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
(i) The employee, officer or agent,
(ii) Any member of his immediate family,
(iii) His or her partner, or
(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

❑ Yes ❑ N/A (8) Grantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

❑ Yes ❑ N/A (9) Grantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

❑ Yes ❑ N/A (11) Grantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

❑ Yes ❑ N/A (12) Grantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:
(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
(ii) Violations of the grantee's protest procedures for failure to review a complaint or protest.
Protests received by the Federal agency other than those specified above will be referred to the grantee.

(c) Competition.

❑ Yes ❑ N/A (1) All procurement will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:
(i) Placing unreasonable requirements on firms in order for them to qualify to do business,
(ii) Requiring unnecessary experience and excessive bonding,
(iii) Noncompetitive pricing practices between firms or between affiliated companies,
(iv) Noncompetitive awards to consultants that are on retainer contracts,
(v) Organizational conflicts of interest,
(vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
(vii) Any arbitrary action in the procurement process.

❑ Yes ❑ N/A (2) Grantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate

number of qualified firms, given the nature and size of the project, to compete for the contract

❑ Yes ❑ N/A (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

❑ Yes ❑ N/A (4) Grantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, Grantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed.

❑ Yes ❑ N/A (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
(ii) Proposals will be solicited from an adequate number of qualified sources;
(iii) Grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
(v) Grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. **Per 24 CFR parts 941 and 85, this method, where price is not used as a selection factor, may only be used for the procurement of A/E or development services.**

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

❑ Yes ❑ N/A (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

❑ Yes ❑ N/A (2) Affirmative steps shall include:
(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; ii) Assuring that small and minority businesses, and women's business enterprises are solicited when-ever they are potential sources;
(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

❑ Yes ❑ N/A (1) Grantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services con-tracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonable-ness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

❑ Yes ❑ N/A (2) Grantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

❑ Yes ❑ N/A (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

❑ Yes ❑ N/A (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review.

❑ Yes ❑ N/A (1) Grantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

❑ Yes ❑ N/A (2) Grantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
(i) A grantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ``brand name'' product; or
(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

❑ Yes ❑ N/A (3) A grantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
(i) A grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
(ii) A grantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee that it is complying with these standards. A grantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements system available for review.

(i) Contract provisions.
A grantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require and have its changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- ❑ Yes ❑ N/A (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold).
- ❑ Yes ❑ N/A (2) Termination for cause and for convenience by the grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000).
- ❑ Yes ❑ N/A (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees).
- ❑ Yes ❑ N/A (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair).
- ❑ Yes ❑ N/A (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by Grantees when required by Federal grant program legislation).
- ❑ Yes ❑ N/A (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by Grantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers).
- ❑ Yes ❑ N/A (7) Notice of awarding agency requirements and regulations pertaining to reporting.
- ❑ Yes ❑ N/A (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- ❑ Yes ❑ N/A (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- ❑ Yes ❑ N/A (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making an audit, examination, excerpts, and transcriptions.
- ❑ Yes ❑ N/A (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- ❑ Yes ❑ N/A (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).
- ❑ Yes ❑ N/A (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Name of Authorized Official:	Title:
Signature: X	Date: ____/____/____ mm dd yy

[FR Doc. 01–8528 Filed 4–5–01; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–24]

Notice of Submission of Proposed Information Collection to OMB; HUD Conditional Commitment/Direct Endorsement Statement of Appraised Value

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 7, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0494) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department. This Notice also lists the following information:

Title of Proposal: HUD Conditional Commitment/Direct Endorsement Statement of Appraised Value.

OMB Approval Number: 2502–0494.

Form Numbers: HUD–92800.5B.

Description of the Need for the Information and Its Proposed Use: Form HUD 92800.5B sets forth the terms of the conditional commitment/direct endorsement statement of appraised value and other requirements that must be met before HUD will endorse the mortgage for insurance.

Respondents: Individuals or households, Business or other for-profit, Federal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	1,200,000		1		1.16		140,000

Total Estimated Burden Hours: 140,000.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 29, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–8527 Filed 4–5–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–14]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 6, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 29, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–8220 Filed 4–5–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4673–N–01]

Lead Safe Housing: Notice of Extension of Transition Assistance Period to Certain Jurisdictions

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: This notice advises the public of a direct notice that HUD issued on March 5, 2001, to jurisdictions which previously submitted a transition implementation plan to advise these jurisdictions of how they may obtain an additional time period to build capacity to comply with HUD's Lead Safe Housing Regulation.

DATE: *Effective Date.* March 5, 2001.

FOR FURTHER INFORMATION CONTACT: Further information on lead-based paint regulation transition assistance (including a sample transition implementation plan matrix), training courses, and related issues is available at www.hud.gov/offices/lead. A list of the phone numbers for EPA Regional Lead Coordinators is available at www.epa.gov/lead/leadoff1.htm or through the Lead Paint Compliance Assistance Center at the number below. (The 15 States and two territories that do not have a lead certification program as of March 8, 2001, are: AK, AZ, FL, GU, HI, ID, MT, NE, NV, NM, NY, ND, SC, SD, VI, WA, WY.) Questions may be directed to the Lead Paint Compliance Assistance Center toll-free at 1–866–HUD–1012. (Note: Some local telephone exchanges may have difficulty accessing this phone number. In such a case, you should contact your local telephone operator for toll-free access).

SUPPLEMENTARY INFORMATION: On March 5, 2001, HUD issued a direct notice to jurisdictions which previously submitted a transition implementation plan to advise these jurisdictions of how they may obtain an additional time period to build capacity to comply with HUD's Lead Safe Housing Regulation. For those jurisdictions requesting more time, the March 5, 2001 notice provides that an updated transition implementation plan must be submitted to HUD no later than April 10, 2001. An automatic extension of the existing transition assistance period from March 15, 2001 to April 10, 2001 is in effect to ensure that jurisdictions have enough time to update their Transition Implementation Plans. No submittal is needed to cover the time period from March 15, 2001 to April 10, 2001. HUD provides this additional time to promote coordination among state and local agencies. The March 5, 2001 notice advises that during this period, program participants must continue to comply with HUD's lead-based paint regulations that were effective before September 15, 2000. HUD will assume that a jurisdiction that does not submit an updated transition assistance plan has the capacity to comply with HUD's new lead-based paint regulation at 24 CFR part 35. HUD will issue a notice prior to August 10, 2001 to address any remaining capacity shortfalls.

Background

On September 15, 1999 (64 FR 50140), HUD published a new regulation amending 24 CFR part 35 to streamline, modernize and consolidate all lead-based paint requirements in federally-assisted housing and housing being sold by the federal government to ensure that children are adequately protected from lead poisoning. The regulation took effect one year later, on September 15, 2000, to enable those covered by the regulation to prepare for its implementation. On September 11, 2000 (just before the effective date), HUD published a policy to aid in the transition to the new regulation. That policy provided a 6-month transition period to those jurisdictions that submitted a Statement of Inadequate Capacity and a Transition Implementation Plan to HUD. The submissions documented the jurisdictions' need to build capacity to meet the rule's requirements. See HUD's September 11, 2000 notice at 65 FR 54858, for further details on HUD's lead-based paint transition assistance policy.

In response to state and local requests, HUD has funded a variety of training and is currently conducting over 200 training courses in 100 jurisdictions to build capacity in lead-safe work practices for workers performing rehabilitation or maintenance in Federally-assisted housing. In addition, many jurisdictions have conducted their own training to build capacity as needed.

Transition Assistance

HUD's current transition assistance period expired on March 15, 2001. Despite substantial progress since the regulation took effect on September 15, 2000, there may still remain some jurisdictions that lack capacity in one or more disciplines, in one or more programs. Therefore, HUD concluded that compliance is still not feasible for certain specified programs when jurisdictions provide an acceptable updated Transition Implementation Plan.

The updated Transition Implementation Plan must demonstrate good faith efforts to build capacity and include all of the following:

(1) A list of programs where compliance is now feasible.

(2) A list of disciplines (e.g., lead-safe maintenance worker, rehabilitation worker, risk assessor, sampling technician, abatement worker) where capacity is now adequate.

(3) A statement that capacity is not adequate to comply with the regulation, listing the applicable program and discipline.

(4) A date by which compliance is expected to be feasible that is not later than August 10, 2001.

(5) An updated Transition Implementation Plan matrix including the number of individuals currently available and needed for each discipline and program area.

(6) A short narrative description of activities undertaken to coordinate with the state lead paint certifying agency (or, in states without a lead certification program, with the applicable EPA Regional Lead Coordinator), and/or health departments, including a statement that the certifying agency was contacted for a list of certified persons (if such persons were needed).

(7) A short narrative description of how the jurisdiction will link trained individuals to housing programs.

(8) A short narrative description of activities undertaken to coordinate resources in nearby jurisdictions.

(9) A list of all training activities that have been or will be completed as of April 10, 2001, including the number of people trained in each discipline and their names.

(10) A list of training courses that are scheduled in the next several months, the entity offering the course and a contact name, address and phone number for the training provider.

(11) For jurisdictions with a HUD lead hazard control grant program starting before January 1, 2000, a statement signed by the administrator of the lead grant program describing why the program has not built adequate capacity.

(12) The name of a state or local agency and contact person that will be responsible for coordinating HUD-funded lead-based paint training within the jurisdiction.

The March 5, 2001 notice provides that the updated Transition Implementation Plan must be signed by the following:

For entitlement jurisdictions in cities, counties and tribes: The chief elected official of the jurisdiction, or *both* the head of the agency which submits the Consolidated Plan to HUD and the head of the local health department. In states that do not have an EPA authorized state program, the EPA regional office overseeing the lead certification program shall be sent a copy no later than the time of submission.

For non-entitlement areas of states: The Governor, or *both* the head of the agency administering the EPA-authorized state lead paint certification program and the head of the agency submitting the Consolidated Plan to HUD. In states that do not have an EPA authorized state program, the head of the state health department shall sign along with the head of the agency submitting the consolidated plan; the EPA regional office overseeing the lead certification program shall be sent a copy no later than the time of submission. If a public housing agency

in a non-entitlement area does not know which agency to contact in the state government regarding the status of the extension request, they may obtain the information from the Lead Paint Compliance Assistance Center toll-free at 1–866–HUD–1012. The PHA may also obtain the name and telephone number of the state employee and office that served as the contact for the extension.

A submission will not be processed if it lacks any of the signatures and Transition Implementation Plan elements required above. The March 5, 2001 notice advised the jurisdictions that their updated Transition Implementation Plan must be postmarked no later than April 10, 2001 and must be sent to: Ms. Gail N. Ward, U.S. Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control, 451 Seventh St. SW., P–3206, Washington, DC 20410.

The March 5, 2001 notice advised that unless HUD received an updated Transition Implementation Plan with a postmark dated no later than April 10, 2001, HUD will conclude that the jurisdiction now has capacity to protect children in federally-assisted housing and that all programs will comply with the regulation. Additionally, the March 5, 2001 notice provided that if the updated Transition Implementation Plan includes all the elements listed in the March 5, 2001 notice the Department will conclude, after review, that compliance is not feasible for the applicable programs and/or disciplines for the time period designated in the plan, which should not extend beyond August 10, 2001. During this period, program participants must continue to comply with HUD's lead-based paint regulations that were effective before September 15, 2000.

Dated: March 20, 2001.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–8526 Filed 4–5–01; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4434–N–07]

Quality Housing and Work Responsibility Act of 1998; Notice of Status of Implementation

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On October 21, 1998, the Quality Housing and Work Responsibility Act of 1998 (the ''Act'') was signed into law. This notice updates the public on HUD's overall implementation of the Act and identifies where existing implementation guidance may be found with respect to the provisions regarding public housing and tenant-based assistance.

FOR FURTHER INFORMATION CONTACT: Stephen I. Holmquist, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC, 20410; telephone (202) 708–0713 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Program specialists for more specific HUD program areas are listed on the HUD web page at http://hudweb.hud.gov/offices.html.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Quality Housing and Work Responsibility Act of 1998 (Title V of Pub.L. 105–276, 112 Stat. 2518, approved October 21, 1998) (the ''Act''), was part of the Fiscal Year 1999 HUD Appropriations Act. The Act makes extensive amendments to the United States Housing Act of 1937 (the ''1937 Act''), which generally governs HUD's public housing and tenant-based Section 8 housing assistance programs. Certain provisions of the Act became effective immediately on enactment (October 21, 1998). Most provisions of the Act, however, became effective on October 1, 1999, although some provisions become effective on October 21, 1999 (one year from enactment) or on other dates specified in the Act.

On February 18, 1999 (64 FR 8192), HUD published a Notice of Initial Guidance on the Act to advise the public of those provisions that were effective immediately and of action that may or should be taken at that point. The February 18, 1999 Notice also provided guidance on certain other provisions in the Fiscal Year 1999 HUD Appropriations Act that affect the public housing and Section 8 programs. Since publication of the February 18, 1999 notice, HUD has published numerous other notices and proposed, interim, and final rules to implement the Act. On December 22, 1999 (64 FR 71799), HUD published comprehensive guidance on the status of implementation of the Act.

Since that time, HUD has published additional notices and rules to implement the Act. This notice, published in today's **Federal Register**, updates the public on HUD's overall implementation of the Act and identifies where existing implementation guidance may be found, with respect to the provisions regarding public housing and tenant-based assistance.

II. Summary of Rulemakings Undertaken Under the Quality Hoiusing and Work Responsibility Act

In addition to the Notice of Initial Guidance, published on February 18, 1999, and the update to that Notice, published on April 30, 1999 (64 FR 23344), and the Status of Implementation Notice of December 22, 1999, the following rulemaking has occurred under the Act (**Federal Register** references are included in the following chart):

Final Rules

1. Public Housing Agency Plans
2. Statutory Merger of the Section 8 Certificate and Voucher Programs (Housing Choice Voucher Program)
3. Renewals of Section 8 Tenant-Based Assistance Contracts
4. Revised Restrictions on Assistance to Noncitizens
5. Comprehensive Improvement Assistance(CIAP)Formula Allocation for Fiscal 1999
6. Public Housing Drug Elimination Program (PHDEP) Formula Allocation
7. Required Resident on the PHA Board of Commissioners or Similar Governing Body
8. Amendments to the Public Housing Assessment System (PHAS)
9. Allocation of Funds Under the Public Housing Capital Fund
10. Changes to Admissions, Rents and Occupancy Requirements in the Public Housing and Section 8 Programs
11. Pet Ownership in Public Housing
12. Direct Funding of Resident Management Corporations
13. Section 8 Homeownership Vouchers
14. Consortia of Public Housing Agencies and Joint Ventures
15. Rule to Deconcentrate Poverty and Promote Integration in Public Housing (amended PHA Plan)
16. Earned Income Disregard for Persons with Disabilities in Certain Programs

Interim Rule

1. Allocation of Operating Subsidies under the Operating Fund Formula

Proposed Rules (Final Rule not yet published).

1. Screening and Eviction for Drug Abuse and Other Criminal Activity
2. Required Conversion of Developments from Public Housing Stock
3. Voluntary Conversion of Developments from Public Housing Stock
4. Public Housing Homeownership Program
5. Total Development Costs
6. Allocation of Funds under the Public Housing Operating Fund

Proposed Rules Under Development (not yet published)

1. *Public Housing Capital Fund.* This rule will establish regulatory provisions concerning the Public Housing Capital Fund other than the formula.

2. *Public Housing Mixed Finance.* This rule will make a number of changes to the mixed finance regulations, including fully implementing section 539 of the Act.

3. *Public Housing Demolition/Disposition.* This rule will implement more fully section 531 of the Act.

III. Summary Chart of Status and Guidance

The following chart summarizes HUD's implementation, or guidance issued, to date on each section of the Act covered by this Notice. Where rulemaking is not yet completed the public should review the guidance in the December 22, 1999 Status of Implementation; Guidance Notice.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 503(c) Technical Recommendation.	.....	.....	.....	.....	Report containing proposals for technical and conforming legislative changes was submitted to the Congress on July 23, 1999.
Sec. 503(d) List of obsolete documents.	.....	.....	.....	.....	The required FEDERAL REGISTER notice was published on October 1, 1999 (64 FR 53400).
Sec. 505 Declaration of Policy and Public Housing Agency Organization.	.....	June 23, 1999 (64 FR 33644).	.....	October 21, 1999 (64 FR 56870).	Rulemaking implemented the statutory requirement that the governing board of each PHA, with certain exceptions, contain at least one member who is directly assisted by the PHA.
Sec. 506 Definitions.	.....	.....	.....	.....	Statutory changes were incorporated in HUD rulemakings implementing the Public Housing Reform Act, as appropriate.
Sec. 507 Minimum Rent.	Yes	Part of Admissions and Occupancy, April 30, 1999 (64 FR 23459).	.....	A/O final rule March 29, 2000 (64 FR 16692).	Section 507 was effective upon enactment.
Sec. 508 Determination of Adjusted Income and Median Income.	.....	Part of Admissions and Occupancy rulemaking.	.....	A/O final rule March 29, 2000 (64 FR 16692).	Partial implementation was required by August 6, 1999 Notice of Guidance on Public Housing Rent Policies (64 FR 42956).
Sec. 509 Family Self-Sufficiency Program.	Yes	Part of Admissions and Occupancy rulemaking.	.....	A/O final rule March 29, 2000 (64 FR 16692).	
Sec. 510 Prohibition on Use of Funds.	.....	.....	.....	.....	Self-implementing; no rulemaking required.
Sec. 511 Public Housing Agency Plans.	.....	April 17, 2000 (65 FR 20686).	February 18, 1999 (64 FR 8170).	October 21, 1999 (64 FR 56844). Streamlining, August 14, 2000 (65 FR 49484). December 22, 2000, Amended Final Rule (65 FR 81214). February 5, 2001, Change in Applicability Date (66 FR 8897).	Additional guidance provided in PIH Notices 99–33 and 99–51, 2000–43 and 2001–4, including required electronic template for submission of PHA Plans and simplified Small PHA Plan Update.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 512 Community Service and Family Self-Sufficiency Requirements.	Yes, as to changes to welfare-related program requirements (see amended subsection 12(d) of the 1937 Act).	Part of Admissions and Occupancy rulemaking.	.....	A/O final rule March 29, 2000 (64 FR 16692).	PIH Notice 2000–11, published on May 9, 2000, provides a model cooperative agreement that PHAs can use with welfare and other agencies to target supportive services and share needed information.
Sec. 513 Income Targeting for Public Housing and Tenant-Based Section 8 Assistance.	Yes	Part of Admissions and Occupancy rulemaking.	Part of PHA Plan rulemaking, with regard to deconcentration (see section 511).	A/O Final Rule March 29, 2000 (65 FR 16692).	
			Part of Section 8 Merger Interim rule with regard to Section 8 vouchers. The interim rule was published on May 14, 1999 (64 FR 26632) (see section 545).	Part of PHA Plan rulemaking, with regard to deconcentration (see section 511). Final Section 8 Merger rule published on October 21, 1999 (64 FR 56894) (see section 545).	
Sec. 514 Repeal of Federal preferences.	Yes	Part of Admissions and Occupancy rulemaking (for public housing and Section 8 project based assistance).	Part of Section 8 Merger rulemaking (for Section 8 tenant-based vouchers) (See section 545).	A/O Final Rule March 29, 2000 (65 FR 16692). Part of Section 8 Merger rulemaking (See section 545)..	
Sec. 515 Joint Ventures and Consortia of PHAs.	.....	September 14, 1999 (64 FR 49940).	.....	Nov. 29, 2000 (65 FR 71204).	For guidance prior to implementation of final rule see PIH Notice 2000–43.
Sec. 516 Public Housing Agency Mortgages and Security Interests.	.....	In development, in conjunction with capital fund program (non-formula) rulemaking (see section 519).			
Sec. 517 Mental Health Action Plan.	.....	.....	.....	.....	Development of action plan and compliance with other statutory requirements is in progress.
Sec. 518 Local Notification.	.....	.....	.....	.....	No rulemaking necessary, but additional elaboration may be provided in Capital Fund program (non-formula) rulemaking (see section 519).
Sec. 519					
1. Capital Fund formula.	.....	September 14, 1999 (64 FR 49924).	.....	March 16, 2000 (65 FR 14422) and May 2, 2000 Amendment (65 FR 25445).	
2. Capital Fund program (non-formula).	.....	In development..			
Sec. 519 Operating Fund.	Yes (transition provisions).	Negotiated rule published on July 10, 2000 (65 FR 42488).	March 29, 2001 (66 FR 17276).	.....	Nonrental income provision was implemented for FY 2000 by PIH Notice 2000–4.
Sec. 519 Other Provisions.	Yes.				
Sec. 520 Total Development Cost.	.....	January 4, 2001 (65 FR 1008).	.....	.....	Guidance also provided in PIH Notice 99–17.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 521 Sanctions for Improper Use of Amounts.	.....	.....	.....	.....	No rulemaking required; HUD will cross-reference this sanction authority in its program regulations, as appropriate.
Sec. 522 Repeal of Modernization Fund.	.....	.....	.....	Capital fund formula final rule covers some aspects. (See Section 519).	Guidance provided in the March 23, 1999 HUD–CPD memorandum on the ''Impacts of the 1999 Appropriations Act on HOME and SHOP'' and the March 25, 1999 clarifying memorandum on the same subject.
Sec. 523 Family Choice of Rental Payment.	Discussed but not implemented.	Part of Admissions and Occupancy rulemaking.	.....	A/O Final Rule March 29, 2000 (65 FR 16692).	Implementation required by the August 6, 1999 Notice of Guidance on Public Housing Rent Policies.
Sec. 524 Occupancy by Police Officers and Over-Income Families.	Yes	Part of Admissions and Occupancy rulemaking.	.....	A/O Final Rule March 29, 2000 (65 FR 16692).	
Sec. 525 Site-Based Waiting Lists.	.....	.....	Part of PHA Plan rulemaking (see section 511).	Part of PHA Plan rulemaking (see section 511).	
Sec. 526 Pet Ownership.	.....	June 23, 1999 (64 FR 33640).	.....	July 10, 2000 (65 FR 42518).	
Sec. 529 Contract Provisions.	.....	.....	.....	.....	No rulemaking required; to be implemented through amendments to Annual Contributions Contracts (ACCs).
Sec. 530 Housing Quality Requirements.	Yes	.....	.....	.....	No rulemaking required; to be implemented through ACC amendments.
Sec. 531 Demolition and Disposition of Public Housing.	Yes	In development	Part of PHA Plan rulemaking (see section 511).	Part of the PHA Plan rulemaking (see section 511).	Additional guidance provided in PIH Notice 99–19.
Sec. 532 Resident Councils and Resident Management Corporations.	.....	October 21, 1999 (64 FR 56890) (provides for the direct funding of RMCs); more comprehensive proposed rule in development.	.....	Final rule for October 21, 1999 proposed rule. July 10, 2000 (65 FR 42512).	
Sec. 533 Voluntary Conversion of Public Housing to Vouchers.	.....	July 23, 1999 (64 FR 40240).	.....	In development.	
Sec. 534 Transfer of Management of Certain Housing.	.....	.....	.....	.....	Rulemaking is not required, but may be included as part of resident participation rulemaking (Part 964).
Sec. 535 Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Projects (HOPE VI).	.....	.....	.....	.....	Implemented by the annual notices of fund availability (NOFAs) for the HOPE VI program beginning 1999 with the FY NOFA.
Sec. 536 Public Housing Homeownership.	.....	September 14, 1999 (64 FR 49932).	.....	In development.	
Sec. 537 Required Conversion of Public Housing to Vouchers.	.....	July 23, 1999 (64 FR 40232).	.....	In development.	

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 538 Linking Services to Public Housing Residents.	.....	.....	.....	.....	Implemented through FY 1999 and FY 2000 NOFAs on the Resident Opportunities and Self-Sufficiency (ROSS) program; and HUD may undertake rulemaking in FY 2001.
Sec. 539 Mixed-Finance Public Housing.	.....	In development..			
Sec. 545 Merger of Certificate and Voucher Programs.	.....	.....	May 14, 1999 (64 FR 26632).. July 10, 2000, Expansion of Payment Standard Protection (65 FR 42508).	October 21, 1999 (64 FR 56894). An amendment to the final rule was published on November 3, 1999 (64 FR 59620).	A notice to implement FY 2001 Appropriations Act Project-Based Assistance amendments was published January 16, 2001. (66 FR 3605).
	.....	.....	October 2, 2000, Increased Fair Market Rents and Higher Payment Standards (65 FR 58890).	January 19, 2001 (66 FR 6218), Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income, effective April 20, 2001.	Among other provisions, this rule applies the mandatory earned income disregard for rent calculation purposes to persons with disabilities in the voucher program.
Sec. 546 Public Housing Agencies.			Part Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545)..	
Sec. 547 Administrative fee.	Yes		.....	.....	Initial guidance has been supplemented by annual notices. (PIH 2000–28).
Sec. 548 Law Enforcement and Security Personnel in Assisted Housing.	Yes	Part of Admissions and Occupancy rulemaking	.....	A/O Final Rule March 29, 2000 (65 FR 16692)..	
Sec. 549 Advance Notice to Tenants of Expiration, Termination, or Owner Nonrenewal of Assistance Contracts.	Yes		Part of Section 8 merger rulemaking (see section 545).	.....	Additional guidance provided in PIH Notice 98–64.
Sec. 550 Technical and Conforming Amendments.			.....	.....	No rulemaking necessary or anticipated.
Sec. 551 Funding and Allocation.	Yes.				
Sec. 553 Portability			Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545)..	
Sec. 554 Leasing to Voucher Holders.	Yes		Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545)..	
Sec. 555 Homeownership Option.		April 30, 1999 (64 FR 23488)	.....	September 12, 2000 (65 FR 55134).	15 demonstration programs were approved under the proposed rule.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
					Rules are now in development to implement provisions of the American Homeownership and Economic Opportunity Act of 2000, which authorize downpayment assistance and a pilot homeownership assistance program for disabled families.
Sec. 556 Renewals	.....	.....	.....	Negotiated final rule published on October 21, 1999 (64 FR 56894).	Consistent with statutory requirement, the October 21, 1999 final rule was preceded by an implementing PIH Notice (98–65). For the convenience of the public, the PIH notice was also published in the Federal Register on February 18, 1999 (64 FR 8188). In addition, related material is contained in Tenant-Based Section 8 Program; Procedures for Determining Baseline Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations, April 19, 2000 (65 FR21088).
Sec. 557 Manufactured Housing Demonstration Program.	.....	.....	.....	.....	Implemented by letter to the participating housing authorities.
Sec. 559 Rulemaking and Implementation.	.....	.....	Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545)..	
Sec. 561 Home Rule Flexible Grant Demonstration.	Yes	.....	.....	.....	Implementation method was reiterated in the Status of Implementation Notice in December 22, 1999 (64 FR 71799).
Sec. 563 Performance Evaluation Study.	.....	.....	.....	.....	The study is complete.
Sec. 564 Public Housing Management Assessment Program.	.....	June 22, 1999 (64 FR 33348).	.....	January 11, 2000 PHAS Amendments (64 FR 1712). June 6, 2000 Technical Corrections (65 FR 36042).	Partial implementation (regarding independent assessment of small troubled PHAs) provided in the April 30, 1999 Initial Implementation Guidance Update Notice (64 FR 23344). Further details were also provided in a Federal Register notice published on October 21, 1999 (64 FR 33348) and subsequent notices.
Sec. 565 Expansion of Powers for Dealing with Public Housing Agencies in Substantial Default.	Yes.	Part of the PHAS rulemaking (see section 564).	.....	PHAS Final Rule (referenced in preceding section)..	
Sec. 566 Audits	.....	.....	.....	.....	To be implemented through ACC amendment.
Sec. 567 Advisory Council for Housing Authority of New Orleans.	.....	.....	.....	.....	Advisory Council has been appointed. No rulemaking is necessary or anticipated.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 568 Troubled PHAs and Consolidated Plans.	.....	.....	.....	.....	Effective on October 1, 1999. In addition, and will be implemented through rulemaking on Consolidated Plans. S
Sec. 575 Provisions Applicable Only to Public Housing and Section 8 Assistance.	Yes (the provision regarding obtaining information from drug abuse treatment facilities).	The remaining provisions are part of the Screening and Eviction for Drug Abuse and Other Criminal Activity rulemaking (64 FR 40262, July 23, 1999).			
Sec. 576 Screening of Applicants for Federally Assisted Housing.	.....	Part of the Screening and Eviction-Related rulemaking.			
Sec. 577 Termination of Tenancy and Assistance.	.....	Part of the Screening and Eviction-Related rulemaking.			
Sec. 578 Ineligibility of Dangerous Sex Offenders for Public Housing.	.....	Part of the Screening and Eviction-Related rulemaking.			
Sec. 579 Definitions.	.....	Part of the Screening and Eviction-Related rulemaking.			These definitions are applicable to the requirements described in sections 575–578.
Sec. 581 Annual Report.	.....	.....	.....	.....	The first and second annual reports have been submitted to the Congress as required.
Sec. 582 Repeals	.....	.....	.....	.....	Effective on October 1, 1999. No rulemaking is necessary or anticipated.
Sec. 583 Consolidated Plans.	.....	.....	.....	.....	Effective on October 1, 1999. Has been implemented through notices.
Sec. 584 Use of American Products.	Yes.				
Sec. 585 GAO Study on Housing Assistance Programs.	.....	.....	.....	.....	The study required by this section is under way.
Sec. 586 Drug Elimination Program.	.....	May 12, 1999 (64 FR 25736).	.....	September 14, 1999 (64 FR 49900).	Proposed rule was preceded by Advance Notice of Proposed Rulemaking published on February 18, 1999 (64 FR 8210).
Sec. 587 Report on Drug Elimination Contracts.	.....	.....	.....	.....	Report was submitted to Congress as required.
Sec. 589 Notice on Treatment of Occupancy Standards.	.....	.....	.....	.....	Required FEDERAL REGISTER notice published on December 18, 1998 (63 FR 70256). No further regulation is necessary.
Sec. 592 Use of Assisted Housing by Aliens.	.....	.....	.....	May 12, 1999 (64 FR 25726).	
Sec. 595 Native American Housing Assistance.	.....	.....	.....	.....	Implemented by notice. No rulemaking is necessary or anticipated.
Sec. 596 Community Development Block Grant Public Services Cap.	.....	.....	.....	.....	No rulemaking is necessary or anticipated.

Statutory section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed rule	Interim rule	Final rule	Additional information
Sec. 597 Moderate Rehabilitation Terms for Contract Renewals.	Yes				Additional guidance provided in PIH Notice 98–62. No rulemaking is necessary or anticipated.
Sec. 599 Tenant participation.		June 17, 1999 (64 FR 32782).		June 7, 2000 (65 FR 36272).	Further rulemaking regarding enhanced vouchers is expected in 2001.
Sec. 599H Miscellaneous.					No rulemaking is necessary or anticipated.

Conclusion

HUD is continuing to work expeditiously and closely with its public housing and section 8 partners to complete the effective implementation of the Act.

Dated: March 30, 2001.

Gloria Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–8525 Filed 4–5–01; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of revision of two currently approved information collections (OMB Control Numbers 1010–0018 and 1010–0039).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on two collections of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection requests (ICR) are titled ''Form MMS–126, Well Potential Test Report (WPT)''; and ''Form MMS–127, Sensitive Reservoir Information Report (SRI).'' The submissions to OMB will request approval of revisions (to both forms) that clarify the submittal requirements and eliminate certain data elements. The current title (Request for Reservoir Maximum Efficient Rate) of Form MMS–127 is renamed.

DATES: Submit written comments by June 5, 2001.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail comments, the e-mail address is: rules.comments@mms.gov. Reference ''Information Collection Form MMS–126'' or ''Form MMS–127'' as appropriate in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy at no cost of the revised forms MMS–126 and MMS–127.

SUPPLEMENTARY INFORMATION: Please note that on March 8, 2001, MMS published a Notice (66 FR 13955) announcing our intention to routinely renew, without change, OMB approval of form MMS–127, titled ''Request for Reservoir Maximum Efficient Rate (MER)''. Subsequent to publishing that notice, MMS decided to officially revise this form to reflect current reporting practices in the MMS Gulf of Mexico Region. The MMS Alaska and Pacific OCS Regions concurred with this decision. You should disregard the March 8, 2001, notice. If you wish to comment, comment on this Notice instead.

Titles and OMB Control Numbers:

- Form MMS–126, Well Potential Test Report (WPT), 1010–0039.
- Form MMS–127, Sensitive Reservoir Information Report (SRI), 1010–0018.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*), as amended, requires the Secretary of the Interior (Secretary) to preserve, protect, and develop sulphur resources on the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; preserve and maintain free-enterprise competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.''

To carry out these responsibilities, MMS has issued regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protect the environment; and result in diligent exploration, development, and production of OCS leases. Various sections of 30 CFR part 250, subpart K, require respondents to submit forms MMS–126 and MMS–127.

For several years, the MMS Gulf of Mexico Region (GOMR) has issued instructions to lessees and operators that when they submit these forms, they do not need to request a maximum production rate (MPR) or a maximum efficient rate (MER), nor complete data elements 110 through 114 on cumulative well production during

approved testing periods. The GOMR does, however, retain the authority to set MPRs for individual well completions, and to set MERs for individual reservoirs, if necessary to ensure natural resources conservation and to maximize ultimate recovery.

The MMS Alaska and Pacific OCS Regions agree with the determination that MMS no longer needs to collect the information reported in data elements 110 through 114 on both forms. They will still require lessees and operators in those regions to complete data element 91(Requested MPR) on form MMS–126 and data elements 119 and 120 (Present and Requested MER) on form MMS–127. We are revising the forms to reflect these decisions. When we next revise the 30 CFR 250, subpart K, regulations, we anticipate proposing to officially incorporate these changes in regulation.

MMS District and Regional Supervisors use the information on form MMS–126 for various environmental, reservoir, reserves, and conservation analyses, including the determination of MPRs when necessary for certain oil and gas completions. The form contains information concerning the conditions and results of a well potential test. This requirement implements the conservation provisions of the OCS Lands Act and 30 CFR 250. The information obtained from the well potential test is essential to determine if an MPR is necessary for a well and to establish the appropriate rate. It is not possible to specify an MPR in the absence of information about the production rate capability (potential) of the well.

MMS District and Regional Supervisors use the information submitted on form MMS–127 to determine whether a rate-sensitive reservoir is being prudently developed. This represents an essential control mechanism that MMS uses to regulate production rates from each sensitive reservoir being actively produced. Occasionally, the information available on a reservoir early in its producing life may indicate it to be non-sensitive, while later and more complete information would establish the reservoir as being sensitive. Production from a well completed in the gas cap of a sensitive reservoir requires approval from the Regional Supervisor. The information submitted on form MMS–127 provides reservoir parameters that are revised at least annually or sooner if reservoir development results in a change in reservoir interpretation. The engineers and geologists use the information for rate control and reservoir studies.

Responses are mandatory. No questions of a ''sensitive'' nature are asked. MMS will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), 30 CFR 250.196 (Data and information to be made available to the public), and 30 CFR part 252 (OCS Oil and Gas Information Program). Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352.

Frequency: The frequency is ''on occasion,'' but not less than annual.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved ''hour'' burden for both forms is 1 hour.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no ''non-hour cost'' burden associated with either form MMS–126 or MMS–127.

Comments: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. We will summarize written responses to this notice and address them in our submission for OMB approval, including any appropriate adjustments to the estimated burden.

Agencies must estimate both the ''hour'' and ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. We have not identified any non-hour cost burdens for the information collection aspects of forms MMS–126 or MMS–127. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: March 27, 2001.

John V. Mirabella,

Acting Chief, Engineering and Operations Division.

[FR Doc. 01–8461 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of information collection (OMB Control Number 1010–0075).

SUMMARY: To comply with the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled, Gas Processing and Transportation Allowance. We will submit an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval after this comment period closes.

DATES: Submit written comments on or before June 5, 2001.

ADDRESSES: Submit written comments to Dennis C. Jones, Regulations and FOIA Team, Minerals Management Service, Minerals Revenue Management, PO Box 25165, MS 3021, Denver, Colorado 80225. If you use an overnight courier service, our courier address is

Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225.

PUBLIC COMMENT PROCEDURE: Submit your comments to the addresses listed in the **ADDRESSES** section, or email your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment; also, include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Mr. Jones at (303) 231–3046. We will post all comments at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm* for public review.

We make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov.* A copy of the information collection request (ICR) will be available to you without charge upon request. The ICR will also be posted to our web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm* when we submit the ICR to OMB for review and approval.

SUPPLEMENTARY INFORMATION:

Title: Gas Processing and Transportation Allowance.

OMB Control Number: 1010–0075.

Bureau Form Number: MMS–4109, MMS–4295.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. We perform the royalty management functions and assist the Secretary in carrying out DOI's Indian trust responsibility.

The product valuation and allowance determination process is essential to assure that the Indians receive payment on the proper value of the minerals being removed. To determine whether the amount of royalty tendered represents the proper royalty due, it is necessary to establish the proper value of the gas and gas plant products being sold, or otherwise disposed of in some other manner. Of equal importance is the proper determination of costs associated with the allowable deductions from the value of gas and gas plant products.

Under certain circumstances, lessees are authorized to deduct from royalty payments, the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the immediate lease area. Transportation allowances are a part of the product valuation process that the Minerals Management Service (MMS) uses to determine if the lessee is reporting and paying the proper royalty amount.

Also, when gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. MMS normally will accept the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee-owned plant, the processing costs shall be based upon the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual gas plant products. Processing allowances may be taken as a deduction from royalty payments.

Responses to this information collection are voluntary and are required for respondents to claim a gas processing and transportation allowance. Proprietary information is requested and protected, and there are no questions of sensitive nature involved in this collection of information.

Frequency: On occasion.

Estimated Number and Description of Respondents: 65 Indian lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 750 hours.

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: n/a.

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens and need to know if there are costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities.

Your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

The Paperwork Reduction Act of 1995 provides that an agency shall not conduct or sponsor, and a person is not required to respond to, a collection of

information unless it displays a currently valid OMB Control Number.

Dated: March 23, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–8545 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of an information collection (OMB Control Number 1010–0090).

SUMMARY: To comply with the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled, Stripper Royalty Rate Reduction Notification. We will submit an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval after this comment period closes.

DATES: Submit written comments on or before June 5, 2001.

ADDRESSES: Submit written comments to Dennis C. Jones, Regulations and FOIA Team, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225.

Public Comment Procedure

Submit your comments to the addresses listed in the **ADDRESSES** section, or email your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment; also, include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Mr. Jones at (303) 231–3046. We will post all comments at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm* for public review.

We make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Regulations and FOIA Team, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov*. A copy of the information collection request (ICR) will be available to you without charge upon request. The ICR will also be posted to our web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm* when we submit the ICR to OMB for review and approval.

SUPPLEMENTARY INFORMATION:

Title: Stripper Royalty Rate Reduction Notification.

OMB Control Number: 1010–0090.

Bureau Form Number: n/a.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. We perform the royalty management functions and assist the Secretary in carrying out DOI's Indian trust responsibility.

The Bureau of Land Management (BLM) amended 43 CFR 3103.4–1 to allow royalty rate reductions to operators of low-producing, stripper oil properties. This amendment action encourages continued oil production, provides an incentive for enhanced oil recovery projects, discourages abandonment of oil properties producing less than 15 barrels of oil per well-day, and reduces operators' expenses. Operators are required to notify MMS of the reduced royalty rate using Form MMS–4377, Stripper Royalty Rate Reduction Notification. The form requires identification of the operator, name of the contact person, lease and agreement numbers, calculated royalty rate, current royalty rate and period covered.

We estimate that an operator may require 30 minutes per property to research production for one 12-month period, determine average annual well production, and calculate and report a new royalty rate. This is an annual burden of 2,250 hours (½ hour × 4,500 properties). We estimate that an operator may require 15 minutes annually to perform the necessary recordkeeping responsibilities associated with this information collection, or an annual burden of 225 hours (¼ hour × 900 operators).

Responses to this information collection are voluntary and are required for respondents to claim a reduced royalty rate. Proprietary information is requested and protected, and there are no questions of sensitive nature involved in this collection of information.

Frequency: On occasion.

Estimated Number and Description of Respondents: 900 operators of low-producing, stripper oil properties.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 2,475 hours.

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: n/a.

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens and

need to know if there are costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities.

Your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

The Paperwork Reduction Act of 1995 provides that an agency shall not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Dated: March 23, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–8546 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico, Oil and Gas Lease Sale 180, and Central Gulf of Mexico, Oil and Gas Lease Sale 178, Part 2

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the proposed notices of sale.

SUMMARY: This Notice announces the availability of the Gulf of Mexico Outer Continental Shelf (OCS) Proposed Notices of Sale for Oil and Gas Lease Sale 180 in the Western Gulf of Mexico, and for Oil and Gas Lease Sale 178, Part 2, in the Central Gulf of Mexico. This Notice of Availability is published pursuant to 30 CFR 256.29(c), as a matter of information to the public.

ADDRESSES: The proposed Notices of Sale for Sale 180 and Sale 178, Part 2, and ''Proposed Sale Notice Packages'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

SUPPLEMENTARY INFORMATION: With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notices. The proposed Notices set forth the proposed terms and conditions of the sales, including minimum bids, royalty rates, and rentals. The final Notices of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 22, 2001.

Dated: March 26, 2001.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

[FR Doc. 01–8460 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for the Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR 732; and General Reclamation Requirements, 30 CFR 874.

DATES: Comments on the proposed information collection must be received by June 5, 2001.

ADDRESSES: Mail comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtreleas@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requests, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783 or electronically at *jtreleas@osmre.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 732 and 874.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for these information collection activities.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submissions of the information collection requests to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activities:

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR 732.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: Once and annually.

Description of Respondents: 24 State regulatory authorities.

Total Annual Responses: 65.

Total Annual Burden Hours: 9,205.

Title: General Reclamation Requirements, 30 CFR 874.

OMB Control Number: 1029–0113.

Summary: Part 874 establishes land and water eligibility requirements, reclamation objectives and priorities and reclamation contractor responsibility. 30 CFR 874.17 requires

consultation between the AML agency and the appropriate Title V regulatory authority on the likelihood of removing the coal under a Title V permit and concurrences between the AML agency and the appropriate Title V regulatory authority on the AML project boundary and the amount of coal that would be extracted under the AML reclamation project.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 26 State regulatory authorities and Indian tribes.

Total Annual Responses: 45.

Total Annual Burden Hours: 3,240.

Dated: March 19, 2001.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 01–8431 Filed 4–5–01; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–013]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 16, 2001 at 11 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–922 (Preliminary)(Automotive Replacement Glass Windshields from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on April 16, 2001; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on April 23, 2001.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 4, 2001.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 01–8649 Filed 4–4–01; 1:14 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99–13]

Alexander Drug Company, Inc.; Revocation of Registration

The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause, dated January 22, 1999, to Alexander Drug, Co., Inc. (Respondent), seeking to revoke its DEA Certificate of Registration, #BA2660214, and deny any applications for renewal of such registration pursuant to 21 U.S.C. 824(a)(2) for the reason that the Respondent was convicted of a felony related to controlled substances, and section 824(a)(4) for the reason that the Respondent's continued registration would be inconsistent with the public interest, as defined in 21 U.S.C. 823(f). The Order to Show Cause alleged that these grounds were evidenced by the following:

1. The Respondent pharmacy had violated several state regulations and laws regarding record keeping.
2. A pharmacist employee of the Respondent dispensed a controlled substance on two occasions without a physician's authorization.
3. A DEA inspection on August 6, 1996, revealed over one-thousand record keeping violations.
4. On April 28, 1997, the Respondent pharmacy and the president of the Respondent pharmacy were indicted on sixteen felony counts of maintaining false records and one count of conspiracy.
5. On July 28, 1997, the Respondent pharmacy was convicted, upon a plea of guilty, of a felony related to maintaining false records.
6. The president of the Respondent pharmacy was indicted and convicted upon a plea of guilty of one felony count of obstructing a federal officer.
7. The president of the Respondent pharmacy was indicted on three felony counts of making a misrepresentation in the filing of insurance billing.
8. On December 22, 1997, a pharmacist employee of the Respondent was charged with one felony count of obtaining controlled substances under false pretenses and one felony count of conspiracy to obtain controlled substances by fraud.

The Respondent timely filed a request for a hearing on the allegations raised by the Order to Show Cause. After granting the Respondent's emergency motion for a continuance on June 7, 1999, the requested hearing was held in Greenville, South Carolina, on August 17, 1999, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties filed Proposed Findings of Fact, Conclusions of Law Argument. On March 22, 2000, Judge Randall issued her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Opinion). On May 17, 2000, the record of these proceedings was transmitted to the Administrator for final decision.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon the findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts the findings of fact as set forth in Judge Randall's Opinion and also adopts Judge Randall's recommended conclusions of law and decision.

The issue in this proceeding is whether or not the record as a whole establishes a by a preponderance of the evidence that the DEA should revoke the DEA Certificate of Registration of Alexander Drug Co., pursuant to 21 U.S.C. 824(a)(2) and 824(a)(4), and should deny any pending applications for renewal of such registration as a retail pharmacy pursuant to 21 U.S.C. 823(f), because Alexander Drug Co. was convicted of a felony and an officer of Alexander Drug Co. was convicted of a misdemeanor arising out of this investigation but not related to controlled substances, and because the continued registration of Alexander Drug Co. would be inconsistent with the public interest.

The Administrator finds as follows: The Respondent is located in Greenville, South Carolina, and holds a DEA Certificate of Registration, BA2660214, as a retail pharmacy. The Respondent timely submitted a renewal application for this registration, that remains pending before the DEA. Mark Wansley is the President, owner, and pharmacist in charge of Respondent pharmacy. Sam Gaillard began working in charge of Respondent pharmacy. Sam Gaillard began working as a pharmacist for the Respondent in 1955. In 1957, he purchased the Respondent. In 1991, he sold the Respondent to Mr. Wansley but continued to be employed by the Respondent as a pharmacist until 1998.

On July 20, 1994, two inspectors of the South Carolina Department of Health and Environmental Control (DHEC) conducted a routine inspection of the Respondent's controlled substance dispensing records. The inspectors noted their findings on a

Pharmacy Inspection Form. The Pharmacy Inspection Form contains a list of areas reviewed during a South Carolina State pharmacy inspection. An inspector testified that during an inspection, the inspector may write an S (satisfactory), I (improvement needed), or U (Unsatisfactory) next to any general area of review. These notations are meant to heighten the awareness of the pharmacist to the pharmacy's practices in these areas. The determination of which notation a pharmacy receives depends on the number of violations found under the area of review. This DHEC inspection was the first of three such inspections, as set forth below, and a DHEC inspector who participated in each of the three inspections testified as to the findings of each inspection. Judge Randall credited the testimony of the DHEC inspector with regard to the findings of each of the inspections, as set forth below.

The DHEC inspectors found that the Respondent's dispensing records for Schedule II controlled substance transfers included locally prepared prescription forms rather than the required DEA Form 222. The DHEC inspectors advised Mr. Wansley to use DEA form 222 for future controlled substance transfers, but the inspectors did not mark this area of review with an unsatisfactory designation.

The DHEC inspectors noted on the Pharmacy Inspection Form that the dispensing records did not clearly state specific directions with regard to each controlled substance dispensed. The applicable Pharmacy Inspection Form indicates that the Respondent's practices in this area were satisfactory, however. Judge Randall credited the inspector's testimony that noting a potential discrepancy in this area is a ''means of trying to heighten the pharmacist's awareness to try to document according to the regulations.''

The DHEC inspectors found two prescriptions for controlled substances that did not contain a physician's signature. The inspectors indicated on the Pharmacy Inspection Form that the Respondent needed to improve its record keeping in this area.

The DHEC inspectors also informed the respondent of several repeat sales of Schedule V controlled substances to five individuals. State law requires documentation of such sales in a specified manner, including a description of why repetitive sales were needed.

The DHEC inspector testified that the respondent had failed to note the reason that repetitive sales were allowed. The inspectors indicated on the Pharmacy Inspection Form that the Respondent needed to improve its record keeping in this area.

On August 24, 1995, two DHEC inspectors conducted a second inspection of the Respondent. Mark Wansley was present during the inspection. The inspectors noted their findings on a Pharmacy Inspection Form.

The DHEC inspectors noted that the Respondent had failed to record the dates when shipments of controlled substances were received at the pharmacy. The inspectors indicated on the Pharmacy Inspection Form that the Respondent needed to improve its record keeping in this area.

The DHEC inspectors found that, due to a problem with the Respondent's computer system, some dispensing records for controlled substances did not contain complete patient addresses. Additionally, the inspectors noted that some of the dispensing records did not properly contain the dispensing pharmacist's information. The inspectors indicated on the Pharmacy Inspection Form that the Respondent needed to improve its record keeping in these area. The inspectors found more violations in these areas than could be recorded on the Pharmacy Inspection Form.

As was found during the July 20, 1994 inspection, the DHEC inspectors again noted that the respondent's records for Schedule II controlled substance transfers included locally prepared prescription forms rather than the required DEA form 222. The inspectors indicated on the Pharmacy Inspection Form that the Respondent needed to improve its record keeping in this area.

The DHEC inspectors noted several post-dated prescriptions, where the dispensing records indicated that prescriptions for controlled substances were written after the date that the Respondent filled the prescriptions. The inspectors also noted that at least one prescription refill was filled improperly more than 30 days after it was written by the practitioner.

As was noted during the July 20, 1994 inspection, the DHEC inspectors found several repeat sales of Schedule V controlled substances and informed the Respondent ''to be careful.''

On April 19, 1996, DHEC inspectors conducted a third inspection and also an audit of the Respondent. The inspectors noted their findings on a Pharmacy Inspection Form.

The DHEC inspectors again found that the Respondent had transferred Schedule II controlled substances to another registered party without maintaining the proper records, including a DEA Form 222. The records on file for such transfers were unsatisfactory as they did not properly indicate the dates of the transfers. The unsatisfactory condition of these records was noted on the Pharmacy Inspection Form.

The DHEC inspectors again found prescriptions without the proper patient or practitioner name and address information. The inspectors also found several controlled substance prescriptions that were expired or out of date; prescriptions for controlled substances that contained ''use as directed'' instructions rather than more specific dosage directions; dosages dispensed with directions that indicate the amount dispensed exceeded the maximum 30-day limit for the substance; refills that were filled early; one prescription that appeared to be filled with the incorrect controlled substance; and a phone-in prescription for a Schedule II controlled substance that exceeded the amount allowable for an emergency situation. The investigator testified that each of these practices is a violation of state regulation.

As was noted during the previous two inspections, the DHEC inspectors found several repeat sales of Schedule V controlled substances that did not contain the proper state-required documentation.

During this inspection, the DHEC inspectors conducted an inventory and audit of six selected controlled substances. The inspectors analyzed the inventory records, invoices, transfer documents, and dispensing records related to th4ese substances from May 1, 1995, to April 19, 1996, and compared the recorded data to the amounts of the substances in inventory on April 19, 1996. The inspectors found the following shortages or overages for each substance:

Adderall: shortage of 41 dosage units
alprazolam: overage of 1,743 dosage units
Android: overage of 30 dosage units
Bontril: overage of 799 dosage units
Fiorinal: shortage of 27 dosage units
oxycodone: shortage of 176 dosage units

The inspector testified that the series of DHEC inspections showed a consistent pattern of noncompliance with state regulation.

During the April 19, 1996 inspection, the DHEC inspectors also discovered that the Respondent's records contained the following falsified phone-in prescriptions for controlled substances which had been illegally dispensed.

In 1995, Sam Gaillard injured his back, which caused him discomfort. Mr. Gaillard was told by his physician to contact him whenever he needed

medication for pain. On at least ten occasions, Sam Gaillard was unable to reach his treating physician. In order to treat his back pain, Sam Gaillard wrote several controlled substances prescriptions for himself using his physician's name and dispensed the controlled substances to himself. Each prescription identifies Sam Gaillard as the recipient of these medications.

On or about September 29, 1995, and again on or about November 3, 1995, Sam Gaillard dispensed Lorazepam, a Schedule IV controlled substance, to himself, in the name of his wife, without a prescription issued by a practitioner in the usual course of professional practice. He also created a false prescription record indicating that a physician had authorized the prescription. Mr. Gaillard created this false prescription in the name of his wife because her health insurance did not require co-payment.

On or about December 22, 1995, the pharmacy records indicate that Mark Wansley dispensed Lorazepam, a Schedule IV controlled substance, to Sam Gaillard without a prescription issued by a practitioner in the usual course of professional practice and that he created a false prescription record indicting that a physician had authorized the prescription. Although Mark Wansley's initials appear on the record for this prescription, Sam Gaillard testified that he was responsible for filling this prescription and creating the false record. Judge Randall credited Sam Gaillard's testimony that the Respondent's closing procedures often include the evening pharmacist initialing prescriptions that had been filled earlier in the day, in explaining how Mark Wansley's initials could appear on a prescription filled by Sam Gaillard. Judge Randall also credited the testimony of a DEA Diversion Investigator who testified, however, that Sam Gaillard stated to him that Mark Wansley knew of Gaillard's illicit activities. On or about January 24, 1996, and March 29, 1996, Sam Gaillard refilled this prescription and created a false prescription record indicating that a physician had authorized the refills.

Again, on or about February 1, 1996, Sam Gaillard dispensed Vicodin, a Schedule III controlled substance, to himself, without a prescription issued by a practitioner in the usual course of professional practice. Yet Sam Gaillard created a false prescription record indicating that a physician had authorized the prescription.

Sam Gaillard also took a medication prescribed for his wife and found that it relieved his back spasms. On or about March 5, 1996, Sam Gaillard then dispensed hydrocodone, a Schedule III controlled substance, to himself, in the name of this wife, without a prescription issued by a practitioner in the usual course of professional practice. He created a false prescription record indicating that a physician had authorized the prescription.

On or about February 1, 1996, and again on or about February 6, 1996, Sam Gaillard dispensed QV Tussin, a Schedule V controlled substance, to himself, in the name of his wife, without a prescription issued by a practitioner in the usual course of professional practice. He also created a false prescription record indicating that a physician had authorized the prescription.

Sam Gaillard's son suffers from migraine headaches and had been prescribed Fiorinal #3 by his treating physician. When he was unable to reach his son's physician, Sam Gaillard wrote a prescription for Fiorinal #3 using the name of his son's treating physician and dispensed the controlled substances to his son.

On five separate occasions on or about November 23, 1994, May 26, 1995, September 19, 1995, December 12, 1995, and February 23, 1996, Sam Gaillard dispensed Fiorinal #3, a Schedule III controlled substance, to his son, without a prescription issued by a practitioner in the usual course of professional practice. He also created a false prescription record indicating that a physician had authorized the prescription.

On or about December 18, 1995, Sam Gaillard dispensed Prometh VC with codeine, a Schedule V controlled substance, to his son, without a prescription issued by a practitioner in the usual course of professional practice. He also created a false prescription record indicating that a physician had authorized the prescription.

On or about April 12, 1996, at Sam Gaillard's request, Mark Wansley dispensed Fiorinal #3, a Schedule III controlled substance, to Sam Gaillard's son without a prescription issued by a practitioner in the usual course of professional practice. He also created a false prescription record indicating that a physician had authorized the prescription. Judge Randall credited Sam Gaillard's testimony that he told Mark Wansley that he would obtain proper authorization from his son's physician, but he never did so.

Sam Gaillard was charged in Greenville County, South Carolina, with obtaining controlled substances by fraud, and entered a pre-trial intervention program. In accordance with S.C. Code Ann. section 17–22–150, a successful completion of this program results in a non-criminal disposition of the charges.

On August 6, 1996, DEA Diversion Investigators executed a search warrant and conducted an inspection of the Respondent. During the execution of the warrant, the investigators acquired copies of DEA 222 Narcotic Order Forms, invoices for the purchase of controlled substances, prescriptions for controlled substances, and records for the purchase, sale, and transfer of listed chemicals. Judge Randall credited the testimony of a DEA Diversion Investigator (Investigator) with regard to the findings of this investigation.

The Investigator testified that on thirteen occasions, the Respondent transferred Schedule II controlled substances to other DEA registrants without properly executing a DEA Form 222. Although the Respondent did not prepare a DEA Form 222 for any of these transfers as required, the Respondent maintained records indicating the quantity and locations of controlled substances transferred. The Investigator testified that had the information contained on these records been placed properly on DEA forms, there would have been no violation.

The Investigator also testified that the Respondent transferred Schedule III through V controlled substances on nine occasions without recording the proper information, including names, dates, substance type, and quantity. The Respondent did maintain records of each transfer. The records did not always contain all of the required information, however, and they were not always correctly maintained in the Respondent's filing system.

The Investigator further testified that, between April of 1994 and July of 1996, on thirty occasions the Respondent failed to complete properly the required Supplier's Copy 1 of DEA Form 222. The Supplier's Copy 1 of DEA Form 222 failed to include the supplier's DEA number and street address. Further, on fifty occasions between August 23, 1994, and July 19, 1996, the Respondent failed to complete properly the required Purchaser's Copy 3 of DEA Form 222. Many of the records for these transfers were attached to invoices that contained a description of the type of controlled substance transferred, the quantity transferred, and the location of the transfer, however. Thus, the Respondent had the required information, but had failed to record completely the information on the required forms.

On approximately 1000 occasions between August 1994 and August 1996,

the Respondent failed to record information on purchase invoices for controlled substances as required by federal regulations. Missing information included the date the shipment of controlled substances was received, improperly recorded addresses, and no entry showing the number of packages actually received. This information is significant, the pharmacy needs the date and the quantity received to properly account for the controlled substances on hand and subsequently dispensed.

Between November 17, 1995, and July 16, 1996, the Respondent purchased approximately 36,000 capsules of the List I chemical ephedrine without maintaining any required sales records. Regulations involving the record keeping requirements for the purchase and sale of ephedrine were changed in 1994; yet the Respondent's records were not in compliance with these requirements by 1995 or 1996.

During the execution of the search warrant, Mark Wansley was arrested by DEA agents for failing to follow law enforcement officers' instructions, and he was charged with interfering with Federal officers in the execution of a warrant. During the execution of the search warrant, Mr. Wansley chose to remain at the Respondent during the search. The DEA investigators told him to remain seated during the search. Subsequently, Mark Wansley's mother knocked on the back door of the Respondent, and a DEA agent instructed Mr. Wansley that he could not leave his seat to speak with his mother. Contrary to the instructions of the DEA agent, Mr. Wansley left his seat, resulting in his being arrested.

Subsequently, Mark Wansley was indicted, with one count pertaining to the obstruction of a federal officer during the execution of a search warrant in violation of 18 U.S.C. 111.

On July 28, 1997, in the United States District Court for the District of South Carolina, Mark Wansley pleaded guilty to a misdemeanor count of Assaulting, Resisting and Impeding an Agent of the United States in violation of 18 U.S.C. 111 and was sentenced to two years probation.

As a result of the DEA investigation, Mark Wansley and the Respondent were indicted on sixteen felony counts of maintaining false records in violation of 21 U.S.C. 843(a)(4)(A), and one count of conspiracy in violation of 21 U.S.C. 846. The government did not seek conviction on the conspiracy count.

On July 28, 1997, in the United States District Court for the District of South Carolina, the Respondent was convicted of one felony count of maintaining false records in violation of 21 U.S.C. 843(a)(4)(A) and was sentenced to two years of probation and fined $20,000.

Pursuant to 21 U.S.C. 824(a), ''A registration pursuant to section 823 of this title to * * * dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant * * * (2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance or a list I chemical.'' Pursuant to this statute, a felony conviction is an ''independent statutory basis for revocation of a registration.'' See Bobby Watts, M.D., 58 FR 46995 (DEA 1993) (providing the standard for finding an independent statutory basis for revocation under section 824(a)). While a conviction for a felony related to controlled substances creates a lawful basis to revoke a pharmacy's DEA Certificate of Registration under 21 U.S.C. 824(a)(2), it remains within the Administrator's discretion as to whether or not to revoke the registration. Dobson Drug Co., Inc., 56 FR 46445, 46446 (DEA 1991).

The record in this proceeding demonstrates that the Respondent was convicted of one felony count of maintaining false records regarding the dispensing of controlled substances in violation of 21 U.S.C. 843(a)(4)(A). Pursuant to 21 U.S.C. 843(a)(4)(A), it shall be unlawful ''to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II of this chapter.'' Thus the preponderance of the evidence establishes this basis for revocation of the Respondent's Certificate of Registration.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications to renew that registration, if he determines that the continued registration would be inconsistent with the public interest. See KK Pharmacy, 64 FR 49507 (DEA 1999). Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

It should be noted that these factors are to be considered in the disjunctive: the Administrator may properly rely on any one or a combination of these factors, and may give each factor the weight he deems appropriate in determining whether an application for registration should be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (DEA 1989).

Regarding factor one, in accordance with 21 U.S.C. 823(f)(1), the Administrator shall consider the recommendation of the appropriate state licensing agency in determining whether a registrant's continued registration is consistent with the public interest. Here, the state agency has not made a recommendation pertaining to the resolution of this proceeding.

Further, a valid state registration is a prerequisite for DEA Registration. See 21 U.S.C. 823(f) (authorizing the Attorney General to register a practitioner to dispense controlled substances only if the applicant is authorized to dispense controlled substances under the laws of the state in which he or she conducts business); 21 U.S.C. 802(21) (defining ''practitioner'' as ''a pharmacy * * * or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices * * * to distribute, [or] dispense * * * controlled substance[s] in the course of professional practice''). In this case, the Respondent maintains state authority to handle and distribute controlled substances in the State of South Carolina.

In accordance with 21 U.S.C. 823(f)(2), the Administrator shall consider the registrant's experience in dispensing controlled substances in determining whether its continued registration is consistent with the public interest. The Administrator shall also consider, pursuant to 21 U.S.C. 823(f)(4), the applicant's compliance with state and federal law. As the Respondent's experience in dispensing controlled substances is related to its compliance with state and federal law, factors two and four will be considered together. See Service Pharmacy, 61 FR 10,791, 10,795 (DEA 1996).

It is undisputed that the Respondent was convicted of the felony of maintaining false records regarding the dispensing of controlled substances in violation of 21 U.S.C. 843(a)(4)(A). Additionally, the DHEC investigators detailed a series of the Respondent's

record keeping discrepancies over a 21 month period, including failures to record required information on the required forms. Additionally, the DHEC investigators also noted that the Respondent failed properly to record repeat sales of Schedule V controlled substances as required by state regulation. The DHEC investigators noted that the majority of these discrepancies were in areas in which the Respondent needed to improve its practices. In three inspections of the Respondent, the DHEC investigators noted three areas in which the Respondent's practices were unsatisfactory. As was explained during the hearing in this matter by the testifying DHEC investigator, the notations on the Pharmacy Inspection Form generally were intended to help the Respondent understand and fully comply with the relevant state and federal regulations. The results of the DHEC investigation show that, although repeatedly advised of relevant state and federal regulations, the Respondent did not alter its practices to conform to these regulations. By not following the directives of the DHEC investigators, the Respondent's actions over the 21 month period show a general and continued noncompliance with state regulation.

Similarly, the DEA investigation revealed that the Respondent had committed a series of record keeping violations. By not properly preparing DEA Form 222 for each Schedule II transfer, and by not properly preparing Supplier's Copy 1 and Purchaser's Copy 3 of DEA Form 222 for each Schedule II transfer, the Respondent violated 21 U.S.C. 828 and 842(a)(5), and 21 CFR 1305.03, 1305.09, and 1305.11. Respondent also failed properly to record information on purchase invoices for controlled substances in violation of 21 U.S.C. 827 and 842(a)(5), and 21 CFR 1304.22. The non-conforming records actually on file with the Respondent arguably detailed sufficient information to determine that the controlled substances were not diverted to an illicit purpose, however, but were actually transferred to other registrants. Nevertheless, Respondent's non-conforming record keeping is also a violation of 21 CFR 1304.04.

Even if Respondent arguably had sufficient albeit non-conforming information in its files to comply with some of the state and federal record keeping requirements (Respondent had no records whatsoever regarding the disposition of the 36,000 capsules of the List I chemical ephedrine), this does not absolve Respondent from its obligation to adhere to the law. The efficacy of the closed system of distribution for controlled substances and certain chemicals mandated by Congress through the Controlled Substances Act depends upon strict adherence by all registrants to all record keeping requirements including those set forth at 21 U.S.C. 827, 828, 829, and 830, and all implementing regulations found in Title 21 Code of Federal Regulations, as well as all applicable state laws and regulations.

Past DEA cases consistently have held that the failure to comply with record keeping requirements is a basis for revoking a registration. Singers-Andreini Pharmacy, Inc., 63 FR 4,668 (DEA 1998); Arthur Sklar, d/b/a King Pharmacy, 54 FR 34623 (DEA 1989); Summer Grove Pharmacy, 54 FR 28522 (DEA 1989); The Boro Pharmacy and Bell Apothecary, 53 FR 15151 (DEA 1988). These cases reflect the Congressional purpose and intent embodied in the Controlled Substances Act with regard to protecting the public against the dangers of the diversion of controlled substances. ''In passing the Controlled Substances Act, 'Congress was particularly concerned with the diversion of drugs from legitimate channels to illegitimate channels.''' *United States* v. *Frederick M. Blanton,* 730 F.2d 1425, 1427, (11th Cir. 1984) (*quoting United States* v. *Moore,* 423 U.S. 122, 135, 96 S. Ct. 335, 342 (1975). ''The purpose of the enactment of the [Controlled Substances Act] was to provide a system for the control of drug traffic and to prevent the abuse of drugs. The statutory scheme envisioned by the Act is one of control through record keeping. Any person who desires to shoulder the responsibility of engaging in the manufacture or distribution of these products subjects himself to the regulatory system laid down by the 1970 act.'' *United States* v. *Stidham,* 938 F. Supp. 808, 814 (S.D. Ala. 1996) *quoting United States* v. *Greenberg,* 334 F. Supp. 364, 366–7, (W.D. Pa. 1971). ''The Controlled Substances Act attempts to limit this diversion by strict registration requirements of all persons . . . who are authorized by state law to handle controlled substances. The registration scheme includes formalized drug ordering procedures and certain types of recordkeeping thus allowing the federal government's Drug Enforcement Administration to closely monitor the flow of controlled substances from manufacturer to the hands of the consumer.'' *Blanton,* 730 F.2d at 1427. ''The Controlled Substances Act focuses on recordkeeping, in 'an attempt to regulate closely the distribution of certain substances determined by Congress to pose dangers, if freely available, to the public at large.'' *United States* v. *David P. Poulin,* 926 F. Supp. 246, 250 (D. Mass. 1996) *quoting United States* v. *Averi,* 715 F. Supp. 1508, 1510 (M.D. Ala. 1989). The statutory text and legislative history of the Controlled Substances Act makes clear that Congress intended strict compliance with the recordkeeping provisions. *United States* v. *Green Drugs,* 905 F.2d 694, 698 (3d Cir. 1990), *cert. denied,* 498 U.S. 985, 111 S.Ct. 518 (1990); *United States* v. *James Little,* 59 F. Supp. 2d 177, 183 (D. Mass. 1999). *See also United States* v. *Naeem Akhtar,* 95 F. Supp. 2d 668, 671 (S.D. Tex. 1999); *United States* v. *Stidham,* 938 F. Supp. at 813.

The DHEC audit and inventory of the Respondent revealed shortages or overages of each controlled substances investigated. These discrepancies constitute a violation of 21 U.S.C. 827 and 21 CFR 1304.21, which require the Respondent to keep complete and accurate records of all controlled substances. The audit also revealed the presence of prescriptions that were post-dated, filled beyond the expiration date, incorrectly filled, refilled too early, and filled for more than allowed by regulation. These practices constituted a violation of state and federal regulations.

The DEA inspection also found that the Respondent purchased approximately 36,000 units of the List I chemical ephedrine without maintaining any required sales record, which is a violation of 21 U.S.C. 830(a) and 842(a)(10), and 21 CFR 1310.03 and 1310.04. As previously noted, the regulations regarding record keeping requirements for the purchase and sale of the List I chemical ephedrine were changed in 1994; yet the Respondent's records were still not in compliance with these requirements from November 1995 through July 1996. Therefore, the Administrator finds Respondent's consistent pattern of record keeping violations weigh in favor of revocation of its registration.

The DEA has consistently recognized that a pharmacy operates under the control of owners, stockholders, pharmacists, or other employees. Further, the DEA has consistently held that the conduct of these individuals is relevant in evaluating a respondent pharmacy's fitness to be registered by the DEA. See e.g., Rick's Pharmacy, 62 FR 42,595, 42,597 (DEA 1997); Big T Pharmacy, Inc., 47 FR 51,830 (DEA 1982), Seals Energy Outlet, 64 FR 14,269, 14,271 (DEA 1999). On fourteen occasions, the former owner and pharmacist-in-charge of the Respondent, Sam Gaillard, dispensed controlled

substances without practitioner authorization in violation of 21 U.S.C. 829 and 21 CFR 1306.11(a). These violations include the dispensing of twelve unauthorized prescriptions and the dispensing of two unauthorized refills. On at least one occasion the current owner and pharmacist-in-charge of the Respondent, Mark Wansley, dispensed controlled substances without practitioner authorization in violation 21 U.S.C. 829 and 21 CFR 1306.11(a). Additionally, a DEA Diversion Investigator credibly testified that Sam Gaillard stated that Mark Wansley knew about these illicit activities. For each unauthorized distribution of controlled substances, the Respondent's agents created a false record indicating that the distributions were authorized. This falsification of records is a violation of 21 U.S.C. 843(a)(4)(A).

Each of these prescriptions was dispensed to Sam Gaillard or a member of his family. Sam Gaillard is no longer employed by the Respondent, however. Therefore, these unauthorized distributions currently pose no threat to the public interest.

Regarding factor three, Respondent's conviction record, the record in this proceeding demonstrates without dispute that the Respondent was convicted of one felony count of maintaining false records regarding the dispensing of controlled substances in violation of 21 U.S.C. 843(A)(4)(A).

With regard to the fifth factor, such other conduct which may threaten the public health or safety, the record in this case demonstrates without dispute that Mark Wansley, owner and pharmacist-in-charge of the Respondent, was convicted of the offense of Assaulting, Resisting, and Impeding an Agent of the United States. While Mr. Wansley's failure to follow the specific instructions of a DEA agent are relevant to a determination under this factor, the Administrator concurs with Judge Randall's finding that the circumstances surrounding this arrest and conviction are also relevant. Mark Wansley's actions had no effect on the DEA's ability to seize the targeted records nor did his actions serve to hide evidence from the investigation.

Also relevant to this factor, the record demonstrates that Sam Gaillard created two false prescription records in his wife's name, and he used these prescriptions to make false representations to an insurance carrier. Again, however, also significant is the fact that Sam Gaillard is no longer employed by the Respondent.

Finally, past DEA cases have found record keeping violations to be a basis for the revocation of a registration based on the public interest. Summer Grove Pharmacy, 54 FR 28522 (DEA 1989).

The Administrator concurs with Judge Randall's conclusion that a preponderance of the evidence shows that the Respondent has violated state and federal law regarding the dispensing of controlled substances, and finds that the Respondent was convicted of a felony related to maintaining false records regarding the dispensing of controlled substances. Accordingly, the Administrator finds that the Government has established by a preponderance of the evidence that a basis exists to revoke the Respondent's DEA Certificate of Registration and to deny the pending renewal application. See Fourth Street Pharmacy, 52 FR 32,068 (DEA 1987) (holding that a conviction of the respondent corporate entity for a felony related to controlled substances is sufficient ground for revocation of a DEA Certificate of Registration).

In determining whether revocation is warranted, the Administrator looks to the totality of the circumstances in each case. Martha Hernandez, M.D., 62 FR 61,145 (DEA 1997). The record demonstrates that the Respondent has taken proper ameliorative action by no longer employing Sam Gaillard. However, the DHEC and DEA inspections together revealed a consistent pattern of numerous state and federal record keeping violations spanning a period of over two years. The Administrator concurs with Judge Randall's concern that the Respondent presented no evidence demonstrating a change in record keeping practices. See Singers-Andreini Pharmacy, Inc., 63 FR 4,668, 4,6672 (DEA 1998). Mark Wansley's silence leaves the record void of any assurances of his future accountable conduct. See AML Corp., 61 FR 8,973, 8,976 (DEA 1996) (finding that the pharmacy owner's failure to acknowledge past misconduct is significant in determining the public interest). Furthermore, past DEA cases have found that a negative inference may be drawn from a respondent's silence. Alan L. Ager, D.P.M., 63 FR 54,732 (DEA 1998).

The actions by the Respondent's employees in creating false records are significant. The Administrator concurs with Judge Randall's finding that the evidence credibly shows Mark Wansley dispensed controlled substances on at least one occasion without practitioner authorization, and created at least one false prescription record. Such an indication of willingness to engage in dishonest conduct weights heavily in favor of revocation, especially since the record contains no assurances that such conduct will not be repeated in the future. See Rocco's Pharmacy, 62 FR 3,056 (DEA 1997) (holding that improper dispensing of controlled substances is significant in predicting future compliance with relevant regulations).

The DHEC audit of controlled substances revealed overages and shortages, indications that the Respondent's record keeping practices are not adequate to account for the controlled substances handled by the Respondent's employees. These overages and shortages demonstrate that Respondent's record keeping practices do not comport with the legal requirements and present an unacceptable risk of diversion. Further, the Respondent purchased approximately 36,000 units of a List I chemical, yet failed to account for any of its distribution. Thus no records exist to assure the DEA that this substance was lawfully distributed, in violation of 21 U.S.C. 830(a) and 842(a)(10), and 21 CFR 1310.03 and 1310.04.

After reviewing the totality of the circumstances, the Administrator finds that revocation is warranted in this case. The Administrator is very concerned regarding the absence of evidence of remedial actions and the Respondent's demonstrated continued unwillingness or inability to comply with state and federal regulations in the recording and handling of controlled substances and List I chemicals. See Singers-Andreini Pharmacy, Inc., 63 FR 4,668 (DEA 1998); AML Corp., 61 FR 8,973 (DEA 1996). Respondent's failure to comply with relevant record keeping requirements creates a serious risk of diversion, specifically undetected diversion. Such a risk is inconsistent with the public interest. The three DHEC inspections and the subsequent DEA inspection of the Respondent together revealed a persistent pattern of non-compliance with applicable record keeping regulations spanning over two years. Since ''an agency rationally may conclude that past performance is the best predictor of future performance,'' *Alra* v. *Drug Enforcement Administration,* 54 F.3d 450 (7th Cir. 1995), the Administrator concludes that this persistent pattern of non-compliance, taken together with Mark Wansley's failure to testify as to corrective actions taken to prevent future record keeping violations, create an unacceptable risk for the public interest. It is the Respondent's responsibility to conduct its business in a manner that does not place the public at risk for the diversion of controlled substances.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BA2660214, issued to Alexander Drug Co., Inc., be, and it hereby is, revoked. The Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective May 7, 2001.

Dated: March 27, 2001.

Donnie R. Marshall,

Administrator.

[FR Doc. 01–8478 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 3, 2000, Ansys Technologies, Inc., 25200 Commercentre Drive, Lake Forest, California 92630, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexane carbonitrile (PCC) (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 5, 2001.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8550 Filed 4–5–01; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 28, 2000, and published in the **Federal Register** on October 18, 2000, (65 FR 60976), B.I. Chemicals, Inc., 2820 No. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1101)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Levo-alphacetylmethadol (9648)	II

The firms plans to bulk manufacture the listed controlled substances.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of B.I. Chemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8548 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99–30]

Barry H. Brooks, M.D.; Continuation of Registration

On April 8, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Barry H. Brooks, M.D. (Respondent), of Cleveland, Ohio, proposing to revoke his DEA Certificate of Registration BB2048127, pursuant to 21 U.S.C. 824(a)(1), (2), and (4), and to deny any pending applications for such registration pursuant to 21 U.S.C. 823(f).

Respondent timely requested a hearing on the issues raised by the Order to Show Cause, and following pre-hearing procedures, a hearing was held in Cleveland, Ohio, on December 7, 1999, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses and introduced documentary evidence. After the hearing, the Government submitted proposed findings of fact, conclusions of law, and argument; and Respondent submitted a ''Post Hearing Brief.'' On May 24, 2000, Judge Bittner issued her Opinion and Recommended Decision, recommending that the Respondent's registration be continued, and that any pending applications for renewal be granted. On July 18, 2000, Judge Bittner transmitted the record of these proceedings to the Administrator for his final order.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order adopting the Opinion and Recommended Decision of the Administrative Law Judge. His adoption is in no matter diminished by any recitation of facts, issues, and conclusions herein, or by any failure to mention a matter of fact or law.

The Administrator finds that the Respondent graduated from Harvard Medical School in 1967 and thereafter completed training in psychiatry and internal medicine. Since 1979, he has been a member of the faculty at Case Western Reserve University School of Medicine, and he is currently on the staff at five hospitals, while maintaining a private practice in Cleveland, Ohio. Respondent is a recovering alcoholic who is actively involved in Alcoholics Anonymous and is a speaker at its meetings. He has been involved in Alcoholics Anonymous for over fifteen years.

The Administrator further finds that on or about March 7, 1985, Respondent

was convicted in the Cuyahoga County Court of Common Pleas of thirteen felony counts of attempted illegal processing of drug documents as a result of prescribing Dilaudid to patients for the treatment of heroin addiction. Respondent received a sentence of one year imprisonment, but the sentence was suspended and he was placed on one year probation and fined a thousand dollars plus court costs.

In a letter dated November 7, 1985, the State of Ohio Medical Board (Medical Board) notified Respondent of its intent to determine whether it should continue to permit him to practice medicine and surgery in the State of Ohio. The letter cited Respondent's conviction as the reason for the Medical Board's inquiry and advised Respondent of his right to a hearing. Respondent requested a hearing, and on February 11, 1986, he appeared before a hearing examiner for the Medical Board.

Following the hearing, the hearing examiner issued a Report and Recommendation to the Medical Board. The hearing examiner found that both Respondent's prescribing Dilaudid to drug addicted individuals to facilitate their detoxification and the 1985 conviction that resulted from this conduct were bases for revoking his license. The report stated that ''Dr. Brooks' practice of prescribing Dilaudid to facilitate detoxification was not only illegal, but also blatant: the prescriptions themselves declared that the medication was being used for an explicitly illegal purposes.'' Consequently, the hearing examiner recommended that the Medical Board revoke Respondent's Ohio Medical license. In addition, the hearing examiner recommended that the Medical Board require Respondent immediately to surrender his DEA Certificate of Registration.

On July 24, 1986, the Medical Board issued an Entry of Order revoking Respondent's license to practice medicine in Ohio, staying the revocation, and placing Respondent on probation for a period of at least five years but no more than eight years. The Medical Board imposed various conditions, including requirements that Respondent (1) not prescribe, administer, dispense, order, or possess controlled substances, except those listed in Schedules IV and V, for a minimum of two years; (2) undergo psychiatric treatment at least twice a month and ensure that quarterly psychiatric reports were forwarded to the Medical Board; (3) submit daily specimens for random urine screening and ensure that weekly screening reports were forwarded to the Medical Board; (4) undertake and maintain participation in an alcohol rehabilitation program at least two times per week and submit reports that documented his continual compliance with the program; (5) abstain completely from the use of or possession of drugs, other than those that are available over-the-counter or those that were prescribed, administered, or dispensed to him by a person authorized by law; and (6) abstain completely from the used of alcohol.

On April 24, 1987, as a result of the Medical Board's action, Respondent surrendered his DEA Certificate of Registration AB7408619 in Schedules II and III. Respondent maintained his privileges to handle controlled substances in Schedules IV and V, however.

About January of 1989, after Respondent had satisfied the two year minimum restriction on handling Schedule II and III controlled substances, the Medical Board reinstated Respondent's state privileges to handle Schedule II and III controlled substances.

On February 6, 1989, Respondent submitted an application to DEA as a practitioner to handle controlled substances in Schedules II through V. Question 4(b) of this DEA application asks: ''Has the applicant ever been convicted of a felony in connection with controlled substances under State and Federal law, or over surrendered or had a CSA registration revoked, suspended, or denied?'' Respondent answered ''no.''

In June 1992, Respondent submitted an application to the Medical Board for renewal of his medical license. This application included the following questions: ''Have you been found guilty of, or pled guilty or no contest to: (A.) A felony or misdemeanor. (B.) A federal or state law regulating the possession, distribution or use of any drug?'' In response to each of these questions, Respondent checked ''yes.''

On or about November 21, 1995, Respondent signed an Application for Privileges to the Health Care Network/Facility/Organization and/or Hospital. Page nine of this form contains the following questions:

2. Have there ever been any actions against your professional license, including but not limited to, restrictions, limitations, denial, revocation, suspension, voluntary or involuntary surrender or cancellation in any state?

3. Has your DEA license ever been restricted, reduced, denied, suspended, canceled or been voluntarily or involuntarily relinquished?

4. Have you ever been convicted of a felony?

The responses marked on the form indicate a ''yes'' answer to each of these three questions. Respondent testified that he signed the form, but he was unsure whether he signed it before or after it was filled out. He further testified that although he signed this form, he did not read it, and it was completed by an administrator.

On June 16, 1992, and again or June 19, 1995, Respondent submitted DEA Registration renewal applications. Question 2(b) on each of these applications asks the following:

> Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or place on probation?

In response to this question, Respondent checked ''no'' on both the 1992 and 1995 applications.

A Staff Coordinator in the DEA Office of Diversion Control, Chemical Investigation Unit, testified that the DEA applications for registration contain three liability questions that are intended to elicit information from applicants to determine if further investigation is needed. The first liability question asks whether the state or the jurisdiction in which the applicant is practicing has granted the applicant the authority to handle controlled substances. The second and third liability questions asks whether an applicant has ever been convicted of a felony in connection with controlled substances under state or federal law, or ever surrendered or had a controlled substances registration revoked, suspended, or denied. The Staff Coordinator testified that the answers to these questions determine whether further investigation is required. If further investigation is required, the application is sent from DEA Headquarters to the appropriate DEA field office to determine the extent of the applicant's criminal history and the status of his controlled substance registrations, and a ''hold'' is placed on that application until the field office returns an approval to DEA Headquarters.

In April 1996, the DEA Cleveland Resident Office received a change-of-address request from the Respondent. A DEA Diversion Investigator (DI) testified that he was working in the Cleveland office at the time and reviewed Respondent's request. The DI noted that there seemed to be some discrepancies

in the Respondent's submissions that warranted further investigation, and consequently, he reviewed Respondent's drug-related criminal history in a DEA computer database and discovered Respondent's 1985 felony conviction.

The DI testified that he and another DEA Diversion Investigator met with Respondent on November 19, 1996. At that meeting, Respondent admitted that he was familiar with the 1989 DEA application, and that he had checked ''no'' in response to question 4(b). The DI further testified that during this meeting, Respondent indicated that he was familiar with the 1992 and 1995 renewal applications, and that he signed each of them. The DI testified that Respondent stated that he believed he was again eligible for Medical Board privileges after the passage of five years following his conviction, that Respondent also stated that he believed he could obtain his DEA privileges as soon as he was eligible for Medical Board privileges, and for these reasons, he answered ''no'' to the liability questions on the various DEA applications. The DI further testified that later in the meeting, however, Respondent admitted that ''he had screwed up'' in answering the liability questions. Similarly, the Respondent testified before Judge Bittner in these proceedings regarding his responses to the DEA liability questions that he ''definitely had made a mistake and realized that.''

On March 28, 1997, an Assistant United States Attorney for the Northern District of Ohio wrote to Respondent's attorney at that time, advising that the United States Attorney's Office had decided to pursue a criminal prosecution of Respondent pursuant to 21 U.S.C. 843(a)(4)(A). On April 8, 1997, Respondent wrote to DEA's Registration Unit advising that his 1989, 1992, and 1995 DEA registration applications were in error with respect to the liability questions, and requesting that the ''no'' answers to liability questions on his pending 1995 renewal application be changed to ''yes'' answers. Respondent was indicted on two counts of violating 21 U.S.C. 843(a)(4)(A) (in 1992 and 1995, respectively) and was acquitted after a two day trial in August 1997.

Respondent gave testimony in these proceedings with regard to why he answered the liability questions on the DEA applications as he did. Specifically, he stated he did not believe he had to refer to his conviction after the passage of five years, and he further stated he though his conviction had been expunged. Respondent further testified that he thought the surrender of his registration in Schedules II and III was tied to his conviction, and therefore, he believed that the surrender was also expunged. He also testified that he believed DEA knew about his conviction prior to his submission of the 1989, 1992, and 1995 DEA applications because in accordance with the Medical Board's order he had submitted his surrender of schedule II and III privileges to a DEA Diversion Investigator in 1987.

Respondent testified that at the time he executed the 1992 and 1995 DEA applications he believed he was not required to report his conviction. Respondent testified that he believed the Medical Board was the ''gold standard;'' that is, if the Medical Board did not require him to report a conviction after five years, he was not required to report it on any other application.

With regard to his negative answers to the liability questions on his 1989 DEA application, Respondent testified that although this application was completed less than five years after his felony conviction, he believed his conviction had been expunged. Similarly, Respondent testified that he provided a negative response on his 1989 DEA application to the question of whether he had ever surrendered a controlled substances registration because he believed that the surrender was tied to his conviction.

In support of these contentions, Respondents testified that in the late 1980's he sponsored an attorney in Alcoholics Anonymous, and at some point told the attorney about his 1985 felony conviction. Respondent testified that the attorney recommended to him that the conviction be expunged, and that he told the attorney ''go ahead and do it.'' Respondent testified that although he never paid the attorney anything, he later received a letter from the attorney that the expungement ''had been accomplished.'' Respondent testified he did not have a copy of the letter because it was subsequently destroyed in a fire. Respondent testified that he was informed by the court (presumably the same court that convicted him) there was no record of the expungement sometime during the 1997 DEA investigation leading to these proceedings.

Pursuant to 21 U.S.C. 824(a)(1), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has materially falsified any DEA application for registration. Pursuant to 21 U.S.C. 824(a)(2), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has been convicted of a felony related to controlled substances under state or federal law.

In addition, the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate if he determines that the issuance of such registration would be inconsistent with the public interest as determined pursuant to 21 U.S.C. 824(a)(4) and 823(f). Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

As a threshold matter, it should be noted that the factors specified in section 823(f) are to be considered in the disjunctive: The Administrator may properly rely on any one or a combination of the factors, and give each factor the weight he deems appropriate, in determining whether a registration should be revoked or an application for a registration denied. Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (DEA 1989).

Pursuant to 21 U.S.C. 824(a)(1), falsification of a DEA application constitutes independent grounds to revoke a registration. Past cases have established that the appropriate test for determining whether an applicant materially falsified any application is whether the applicant ''knew or should have known'' that the submitted application was false. Terrance E. Murphy, M.D., 61 FR 2,841, 2,844 (DEA 1996); Bobby Watts, M.D., 58 FR 46,995 (DEA 1993).

It is undisputed that after his 1985 conviction, on his 1989 application for DEA registration Respondent provided a ''no'' response to the question of whether he had ever been convicted of a felony in connection with controlled substances under state or federal law or ever surrendered a federal controlled substances registration. Similarly, on his 1992 and 1995 DEA applications, Respondent answered in the negative to the question of whether he had ever been convicted of a crime in connection

with controlled substances under state or federal law or ever surrendered a federal controlled substances registration. In addition, after the Medical Board restricted Respondent's controlled substances privileges in 1986, Respondent provided ''no'' responses on his 1992 and 1995 DEA applications when asked whether he had ever a state professional license or controlled substances registration revoked, denied, restricted or placed on probation.

In contrast to the DEA applications, on separate occasions Respondent submitted applications to organizations other than DEA and provided accurate information in response to liability questions. On an application to the Medical Board dated June 1992, Respondent provided ''yes'' responses when asked whether he had been convicted of a felony or misdemeanor or whether he had been found guilty of a federal or state law regulating the handling of any drugs. Respondent signed and dated this application approximately three days after submitting a DEA application on which he provided a ''no'' response to similar liability questions. Also, in November of 1995, Respondent signed an ''Application For Privileges To The Health Care Network/Facility/ Organization And/Or Hospital'' on which he provided ''yes'' responses when asked whether he had ever been convicted of a felony and whether his DEA registration had ever been ''restricted, reduced, denied, suspended, canceled or been voluntarily or involuntarily relinquished.''

In sum, Respondent testified he believed that (1) he was not required to report the conviction on applications for licensure filed more than five years after his convictions; (2) an attorney with whom he was acquainted had expunged the conviction for him; (3) his surrender of Schedule II and III privileges in 1987 was tied to his conviction; and (4) the DEA knew of his conviction because the agency was involved in an investigation that eventually led to it.

An examination of Respondent's contentions reveals the following. On February 6, 1989, Respondent provided a ''no'' response when asked on a DEA application whether he had ever been convicted of a felony related to controlled substances. Respondent signed and dated this application approximately four years following his 1985 conviction, controverting his assertion that five years was the cutoff point. Respondent testified that his explanation for answering ''no'' in this instance was that he believed his conviction had been expunged. Respondent also testified that on the same application he answered ''no'' when asked whether he had ever surrendered a federal controlled substances registration because he believed that the surrender was related to the conviction, and therefore expunged. Respondent offered the same explanation with regard to the negative answers he provided a similar questions on his 1992 and 1995 DEA applications He also offered these explanations when testifying as to why he responded ''no'' on his 1992 and 1995 DEA applications when asked whether he had ever had a state professional license or controlled substances registration revoked, suspended, denied, restricted or placed on probation.

Judge Bittner noted, and the Administrator concurs, that the liability questions on the DEA applications ask whether the applicant has ''ever been convicted'' of a crime in connection with controlled substances or ''ever surrendered'' a federal controlled substances registration. (Emphasis added). Similarly, the application that Respondent signed in 1992 and 1995 ask whether the applicant ''ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation.'' (Emphasis added). Nothing on the application forms suggests that the mere passage of time relieves the applicant of the obligation of providing accurate answers. Judge Bittner also observed that with regard to Respondent's expungement allegation, Respondent provided no documentary evidence to support his belief that the 1985 conviction had ever been expunged, and he offered no clear explanation for his belief that the surrender of his federal or state controlled substances registrations were related to his conviction. Judge Bittner therefore found, and the Administrator concurs, that Respondent's beliefs were not reasonable, that Respondent knew his answers to the liability questions were false, and therefore were not valid defenses.

Judge Bittner found, and the Administrator concurs, that Respondent's attempt to argue that DEA was aware of Respondent's 1985 conviction, and therefore, that any omission of the conviction on the DEA applications was immaterial, is also without merit. As the DEA Staff Coordinator testified, the liability questions on the DEA applications for registrations are intended to extract information from applicants to determine whether further investigation is needed. ''Answers to the liability question[s] are always material because DEA relies on the answers to these questions to determine whether it is necessary to conduct an investigation prior to granting an application.'' Theodore Neujahr, D.V.M., 64 Fed. Reg. 72,362, 72,364 (DEA 1999) (citing Bobby Watts, M.D., 58 FR 46,995 (DEA 1993); Ezzat E. Majd Pour, M.D., 55 FR 47,547 (DEA 1990).

Prior DEA cases have established that '''[s]ince [it] must rely on the truthfulness of information supplied by applicants in registering them to handle controlled substances, falsification cannot be tolerated.' '' Terrance E. Murphy, M.D., 61 FR 2,841, 2,845 (DEA 1996) (quoting Bobby Watts, M.D., 58 FR 46,995 (DEA 1993). Judge Bittner found, and the Administrator concurs, that Respondent's contentions concerning the reasons for his untruthful answers on his DEA applications are meritless, and therefore constitute grounds for revoking Respondent's registration pursuant to section 824(a)(1). In addition, pursuant to 21 U.S.C. 824(a)(2), conviction of a felony related to controlled substances constitutes independent grounds to revoke a DEA registration. Judge Bittner further noted, however, that in prior DEA cases the Deputy Administrator has held that the totality of the circumstances is to be considered in determining whether a registration should be revoked because of a registrant's material falsification of an application. See Martha Hernandez, M.D., 62 FR 61,145, 61,147–48 (DEA 1997).

With regard to the public interest factors found at 21 U.S.C. 823(f), it is undisputed that Respondent currently is authorized by the State of Ohio to handle controlled substances, and thus satisfies the first factor. Since state licensure is a necessary but insufficient condition for DEA registration, however, Judge Bittner found, and the Administrator concurs, that this factor is not determinative. James C. LaJevic, D.M.D., 64 FR 55,962, 55,964 (DEA 1999).

With regard to the second public interest factor, Respondent's experience in handling controlled substances, Judge Bittner found, and the Administrator concurs, that since Respondent's felony conviction approximately fifteen years ago for illegally prescribing a controlled substance, Dilaudid, to patients for the treatment of heroin addiction, there have been no further allegations that Respondent has abused his controlled substances privileges since regaining a DEA registration in 1989.

With regard to the third public interest factor, Respondent's conviction record relating to controlled substances,

it is undisputed that on or about March 7, 1985, in the Cuyahoga Court of Common Pleas, Cleveland, Ohio, Respondent was convicted of thirteen felony counts involving attempted illegal processing of drug documents.

With regard to the fourth public interest factor, Respondent's compliance with applicable State, Federal, or local laws relating to controlled substances, it is undisputed that Respondent was convicted of attempted illegal processing of drug documents, as noted above. In addition, the State Medical Board of Ohio found that the acts that led to Respondent's conviction constituted a violation of the Ohio Revised Code. Furthermore, pursuant to 21 CFR 1306.04(c) (1999), a practitioner-registrant is prohibited from issuing prescriptions for the dispensing of narcotic drugs listed in any schedule for detoxification treatment. Respondent violated this section by prescribing Dilaudid to known drug addicts for the purpose of facilitating detoxification. Since Respondent violated 21 CFR 1306.04(c), he also violated 21 CFR 1306.04(a) by issuing prescriptions illegally, not for a legitimate medical purpose and not in the usual course of professional practice. Judge Bittner found, and the Administrator concurs, that the findings pursuant to this factor weigh in favor of finding Respondent's continued registration inconsistent with the public interest.

With regard to the fifth public interest factor, such other conduct which may threaten the public health and safety, Judge Bittner noted, and the Administrator concurs, that Respondent's actions in providing inaccurate answers to the liability questions on the various applications are relevant to this factor. Since the issues regarding this conduct have already been discussed, they need not be reiterated here.

Judge Bittner concluded, and the Administrator concurs, that it is undisputed that Respondent was convicted of a drug related felony in 1985 and that he provided inaccurate responses to the liability questions on at least three DEA applications. The Administrator also concurs with Judge Bittner's finding that Respondent's purported justifications for his inaccurate responses are not credible. Thus, the Administrator concurs with Judge Bittner's finding that there are grounds to revoke Respondent's registration pursuant to both 21 U.S.C. 824(a)(1) and 824(a)(2).

The Administrator concurs with Judge Bittner's recommendation that Respondent's registration be continued, however. The totality of the circumstances in this case suggest that the public interest is best served by allowing Respondent to maintain his registration. Respondent has held a DEA registration since 1989, and there is no evidence nor allegation that Respondent has abused the registration since that time. The Administrator concludes that the evidence shows that throughout Respondent has readily admitted fault, has taken responsibility for his past misconduct, and has fully cooperated with and assisted in the investigations concerning his illicit activities. Furthermore, considering the support systems he has in place, including his long-term and active leadership in Alcoholics Anonymous, strong faith in God, a strong and close marriage, and full time employment in a professional medical community, the Administrator concludes that Respondent is unlikely to repeat his past mistakes and that his continued registration is consistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BB2048127, issued to Barry H. Brooks, M.D., be continued, and any pending applications for renewal granted. This order is effective May 7, 2001.

Dated: March 27, 2001.

Donnie R. Marshall,

Administrator.

[FR Doc. 01–8477 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 8, 2000, Chirex Technology Center, Inc., DBA Chirex Cauldron, 383 Phoenixville Pike, Malvern, Pennsylvania 19355, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone for the manufacture of amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8551 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 28, 2000, Ganes Chemicals Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to

the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270	II
Secobarbital (2315)	II
Glutethimide (2550	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 5, 2001.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8552 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 22, 2000, Isotec, Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to produce standards for analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 5, 2001.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8549 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 6, 2000, and published in the **Federal Register** on November 28, 2000 (65 FR 70938), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, PO Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Research Triangle Institute is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: March 29, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–8457 Filed 4–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 30, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comment should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 60 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: State Alien Labor Certification Activity Report.

OMB Number: 1205–0319.

Affected Public: State, Local, or Tribal Government.

Frequency: Semi-annually.

Number of Respondents: 54.

Number of Annual Responses: 108.

Estimated Time Per Response: 2 hours.

Total Burden Hours: 216.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The information collected on the Form ETA–9037 is authorized by 20 CFR parts 655 and 656 and is used to collect information from States on the activities they perform under the Alien Certification Reimbursable Grant.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Forms for Agricultural Recruitment System of Services to Migratory Workers and Their Employers; Application for Alien Employment Certification.

OMB Number: 1205–0134.

Affected Public: State, Local, or Tribal Government; Individuals and households.

Form No.	Frequency	Number of respondents	Annual responses	Average time per response (in hours)	Estimated annual burden hours
ETA–790	On occasion	52	2,000	1.00	2,000
ETA–795	On occasion	52	3,000	.50	1,500
Total			5,000	.75	3,500

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Forms ETA–790 and ETA–795 are used in servicing agricultural employers to ensure their labor needs for domestic migratory agricultural workers are met; in helping domestic agricultural workers locate jobs expeditiously and ensure exposure of employment opportunities to domestic agricultural workers before cortication for employment foreign workers. Due to lack of use, the Department recommends eliminating the previously approved Forms ETA–785 and ETA–785A.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–8520 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify that basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act.

The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 20 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon Act And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 512–1800

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 29 Day of March 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–8230 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; NAFTA-Transitional Adjustment Assistance, Confidential Data Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed renewal of the information collection of the NAFTA Transitional Adjustment Assistance Confidential Data Request, ETA 9043.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before June 5, 2000. Written comments should evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Edward A. Tomchick, Division of Trade Adjustment Assistance, Employment and Training

Administration, Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210, 202–693–3560 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The North American Free Trade Agreement (NAFTA) Implementation Act amended Chapter 2 of Title II of the Trade Act of 1974 to add a Subchapter D—NAFTA Transitional Adjustment Assistance Program. This program provides needed adjustment assistance to workers adversely affected because of imports from Canada or Mexico or shifts of production from the United States to those countries.

Section 250 of the Act authorizes the Governor of each State to accept petitions for certification of eligibility to apply for adjustment assistance. Once a petition for NAFTA adjustment assistance is filed with the Governor in the State where the firm is located, the law gives the Governor ten days to make a preliminary finding of whether the petition meets the group eligibility requirements under Subchapter D, and transmits the finding to the Secretary of Labor. The NAFTA Confidential Data Request Form ETA–9043 establishes the format which has been used by the Governor for making a preliminary finding.

II. Current Actions

This is a request for OMB approval under [the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)] for of a collection of information assigned OMB Control No. 1205–0339.

Type of Review: Extension without change.

Agency: Employment and Training Administration, Labor.

Title: NAFTA-Confidential Data Request.

OMB Number: 1205–0339.

Agency Number: ETA–9043.

Affected Public: Businesses and State.

Total Respondents: Estimated 1,000.

Frequency: On occasion.

Average Time per Response:

Respondents = 3 hours; State Review = 4.5 hours.

Estimated Total Burden Hours:

Respondents = 3,000; State review = 4,500; Total = 7,500.

Estimated Respondent Cost: Respondents = $53,610; State review = $79,110; Total =$132,720.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 30, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–8518 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; NAFTA-Transitional Adjustment Assistance Customer Survey Form

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed renewal of the information collection of the NAFTA Transitional Adjustment Assistance Customer Survey Form, ETA 9044.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before June 5, 2001. Written comments should evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Edward A. Tomchick, Division of Trade Adjustment Assistance, Employment and Training Administration, Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210, 202–693–3560 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The North American Free Trade Agreement (NAFTA) Implementation Act amended Chapter 2 of Title II of the Trade Act of 1974 to add a Subchapter D—NAFTA Transitional Adjustment Assistance Program. This program provides needed adjustment assistance to workers adversely affected because of imports from Canada or Mexico or shifts of production from the United States to those countries.

Section 250 of the Act authorizes the Governor of each State to accept petitions for certification of eligibility to apply for NAFTA transitional adjustment assistance. Once a preliminary finding is issued by the Governor, the Secretary must determine to what extent, if any, increased imports from Mexico or Canada have impacted the petitioning workers' firm selling market, and thus determine whether the statutory criteria for worker group eligibility are met. The customer survey form establishes the format which has been used by the Secretary to determine the impact of imports.

II. Current Actions

This is a request for OMB approval under [the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)] for renewal of a of collection of information previously approved and assigned OMB Control No. 1205–0337.

Type of Review: Extension without change.

Agency: Employment and Training Administration, Labor.

Title: NAFTA Transitional Adjustment Assistance, Customer Survey Form.

OMB Number: 1205–0337.

Agency Number: ETA–9044.

Affected Public: Businesses.

Total Respondents: Estimated 420.

Frequency: On occasion.

Estimated Time Per Response: 2 hours.

Estimated Total Respondent Cost: $32,130.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 30, 2001.

Edward A. Tomchick,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 01–8521 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mine Ventilation System Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before June 5, 2001.

FOR FURTHER INFORMATION CONTACT: Brenda C. Teaster, Acting Chief, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 709A, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. Teaster can be reached at bteaster@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Underground mines present harsh and hostile working environments. the ventilation system is the most vital life support system in underground mining and a properly operating ventilation system is essential for maintaining a safe and healthful working environment. Lack of adequate ventilation in underground mines has resulted in fatalities from asphyxiation and explosions.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Mine Ventilation System Plan. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

A well planned mine ventilation system is necessary to assure a fresh air supply to miners at all working places, to control the amounts of harmful airborne contaminants in the mine atmosphere, and to dilute possible accumulation of explosive gases.

The standard requires that mine operators prepare a written plan of the mine's ventilation system and to update the plan annually. The purposes are to insure that each operator routinely plans, reviews, and updates the plan; to insure the availability of accurate and correct information; and to provide MSHA with the opportunity to alert the mine operator to potential hazards.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Ventilation System Plan.

OMB Number: 1219–0016.

Affected Public: Business or other for-profit.

Frequency: Annually.

Cite/Reference/Form/etc: 30 CFR 57.8520.

Total Respondents: 284.

Total Responses: 284.

Average Time Per Response: 24 hours.

Estimated Total Burden Hours: 6,816 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 30, 2001.

Brenda C. Teaster,

Acting Director, Records Management Division.

[FR Doc. 01–8519 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that collections of information included in its Prohibited Transaction Exemptions 75–1, 80–83, and 88–59 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This notice announces the OMB approval numbers and expiration dates.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the information collection requests (ICRs) to Gerald B. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 22, 2000 (65 FR 51038), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of Prohibited Transaction Class Exemption 75–1 (Broker-dealers, reporting dealers, banks engaging in securities transactions with employee benefit plans). In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0092. The approval expires January 31, 2004.

In the **Federal Register** of August 22, 2000 (65 FR 51038), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of

Prohibited Transaction Class Exemption 80–83 (Transactions involving purchase of securities where issuer may use proceeds to reduce indebtedness to parties-in-interest). In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0064. The approval expires January 31, 2004.

In the **Federal Register** of August 22, 2000 (65 FR 51037), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of Prohibited Transaction Class Exemption 88–59 (Residential Mortgage Financing Arrangements). In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0095. The approval expires January 31, 2004.

Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Dated: March 30, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–8517 Filed 4–5–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking Infrastructure Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Networking Infrastructure and Research (#1207).

Date/Time: May 3–4, 2001; 8 AM–5 p.m. (This meeting was previously scheduled for April 9–10, 2001).

Place: Room 515 Stafford II, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Persons: John Cozzens, Division of Advanced Networking Infrastructure Research, Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8949.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Technology Research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8541 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (1110)

Date/Time: April 26, 2001; 8:30 a.m.–5 p.m.; April 27, 2001; 8:30 a.m.–3 p.m

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA, Rm. 1235.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 292–8400

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Planning and Issues Discussion.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8538 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Earth Sciences Proposal Review Panel (1569).

Date/Time: May 2–4, 2001, 8 a.m. to 6 p.m.

Place: University of Arizona, AMS Facility, Tucson, Arizona.

Type of Meeting: Closed.

Contact Person: Mr. Russell C. Kelz, Associate Program Director, Instrumentation & Facilities Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 292–8558

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Instrumentation & Facilities proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Manager Officer.

[FR Doc. 01–8537 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L 92–463, as amended).

During the period April 1 through May 2001, the Special Emphasis Panel will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Special Emphasis Panel in Electrical and Communications Systems (1196)

1. *Date:* April 26–27, 2001, 8:30 a.m.–5 p.m., Room 340.

Contact: Dr. James Mink, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Type of Proposal: Information Technology Research (ITR).

2. *Date:* May 8–9, 2001, 8:30 a.m.–5 p.m., Room 595 (Stafford Place).

Contact: Dr. James Mink, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Type of Proposal: Major Research Instrumentation (MRI).

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate ITR & MRI proposals submitted to the Division as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8536 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Elementary, Secondary and Informal Education (59).

Date/Time: Wednesday, April 25, 2001, 5:30 p.m. to 9 p.m., Thursday, April 26, 2001, 8:30 a.m. to 5:30 p.m., Friday, April 27, 2001, 8:30 a.m. to 3 p.m.

Place: The Wyndam City Center, 1143 New Hampshire Ave., NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Mr. John S. Bradley, Section Head, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8620.

Purpose of Meeting: To provide advice and recommendations concerning proposals for the Centers For Learning and Teaching Programs submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8530 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Environmental Research and Education (9487).

Dates: May 2, 2001; 8:30 a.m.–2:45 p.m. May 3, 2001; 8:30 a.m.–3:30 p.m.

Place: Stafford II, Room 595, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Margaret Cavanaugh, Office of the Director, National Science Foundation, Suite 1205, 4201 Wilson Blvd., Arlington, Virginia 22230. Phone 703–292–8002.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda

May 2, 2001

Update on recent NSF environmental activities, including the Biocomplexity in the Environment Competition

AC–ERE Task Group meetings and reports on strategic planning; planning for environmental cyberinfrastructure; and education, diversity and communication

Discussion of environmental opportunities with Dr. E. O. Wilson of Harvard University

Discussion of interdisciplinary environmental activities in large groups and centers

May 3, 2001

Discussion of interagency and international ERE activities

Meeting with the Deputy Director

Overview of NSF environmental activities and plans in engineering and in biological sciences

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8539 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental & Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental & Integrative Activities (1193).

Date/Time: May 8, 2001, 8:30 a.m.–5 p.m.

Place: Room 525, 545, 565, and 575 Stafford II Building National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Anita LaSalle, CISE Educational Innovation (EI), Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Educational Innovation (EI) proposals submitted in response to the program announcement (NSF 99–80).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8532 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Geosciences (1756).

Date: April 30, 2001.

Time: 8:30 a.m. to 5:30 p.m.

Place: Room 7770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ms. Robin Reichlin, Program Director, Geophysics Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA 22230, (703) 292–8556.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate cooperative studies of the earth's deep interior proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with

proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8531 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (1203).

Date/Time: April 25–26, 2001, 8 a.m. to 6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 365, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Guebre X. Tessema, Program Director, National Facilities and Instrumentation, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–4943.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for the FY2001 Instrumentation for Materials Research (IMR) and Major Research Instrumentation (MRI) Programs.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8534 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Methods, Cross-Directorate and Science and Society; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following five meetings of the Advisory Panel for Methods, Cross-Directorate and Science and Society (#1760):

1. *Date & Time:* April 27th; 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA Rm. 970.

Contact Person: Dr. Cheryl Eavey, Program Director for Methodology, Measurements and Statistics (MMS) Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7269.

Agenda: To review and evaluate MMS proposals as part of the selection process for awards.

2. *Date & Time:* April 30th 2001; 8 a.m. to 5 p.m. Rm. 970.

Contact Person: Dr. Cheryl Eavey, Program Director for Methodology, Measurements and Statistics (MMS) Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 292–7269.

Agenda: To review and evaluate Survey Methods proposals as part of the selection process for awards.

3. *Date & Time:* May 11th, 2001; 8 a.m. to 5 p.m. Rm. 970.

Contact Person: Dr. Cheryl Eavey, Program Director for Methodology, Measurements and Statistics (MMS) Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 292–7269.

Agenda: To review and evaluate Survey Methods proposals as part of the selection process for awards.

4. *Date & Time:* May 14th–15th, 2001; 8 a.m. to 5 p.m. Rm. 920.

Contact Person: Dr. Rachelle D. Hollander, Program Director for Societal Dimensions of Engineering, Science and Technology Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 292–7272.

Agenda: To review and evaluate SDEST proposals as part of the selection process for awards.

5. *Date & Time:* May 18–19, 2001; 8 a.m. to 5 p.m. Rm. 970.

Contact Person: Dr. Bruce Seely & Dr. John Perhonis, Program Directors for Science and Technology Studies Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 292–7279.

Agenda: To review and evaluate STS proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8540 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel For Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting;

Name: Advisory Panel for Neuroscience (1158).

Date and Time: May 3–4, 2001; 8 a.m. to 5 p.m.

Place: Room 545, 4121 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Harald Vaessin, Program Director, Developmental Neuroscience, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: May 3, 2001; 4 p.m. to 5 p.m. to discuss goals and assessment procedures. Closed Session: May 3, 2001; 8 a.m. to 4 p.m.; May 4, 2001; 8 a.m. to 5 p.m. To review and evaluate Developmental Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Meeting Officer.

[FR Doc. 01–8529 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date/Time: April 19–20, 2001; 8 a.m. to 5 p.m.

Place: Room 680, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Soo-Siang Lim, Program Director, Neuronal & Glial Mechanisms; Division of Integrative Biology and Neuroscience, Suite 680, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 292–8423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 20, 2001; 5 p.m. to 6 p.m., to discuss goals and assessment procedures. Closed Session: April 19–20, 2001; 8 a.m. to 5 p.m. To review and evaluate Neuronal & Glial Mechanisms proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individual associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Meeting Officer.

[FR Doc. 01–8535 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (1208).

Date/Time: April 18–20, 2001, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. John Lightbody, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review various proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, information on personnel and data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 3, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–8533 Filed 4–5–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 199 to Facility Operating License No. DPR–29 and Amendment No. 195 to Facility Operating License DPR–30, issued to Exelon Generation Company, LLC (the licensee), which revised the operating licenses and the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, respectively, located in Rock County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the current Technical Specifications (TS, Appendix A of the operating licenses) in their entirety with a set of improved TS (ITS) based on NUREG–1433, Revision 1, ''Standard Technical Specifications, General Electric Plants BWR/4,'' dated April 1995, and on guidance provided in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132). In addition, the amendments add new conditions to the operating licenses regarding the relocation of current TS requirements into licensee-controlled documents as part of the implementation of the ITS, and the schedule for the first performance of new and revised surveillance requirements (four conditions).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on February 16, 2001 (66 FR 10751). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (66 FR 16691).

For further details with respect to the action see (1) the application for amendment dated March 3, 2000, and supplemented by letters dated March 24, June 5 (two letters), July 18, July 31, September 1, September 22, October 5, October 9, November 20, and December 18, 2000; and February 15, February 28, and March 26, 2001, (2) Amendment No. 199 to License No. DPR–29 and Amendment No. 195 to License No. DPR–30, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 30th day of March 2001.

For the Nuclear Regulatory Commission.

Stewart N. Bailey,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–8501 Filed 4–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

Department of Energy; Three Mile Island, Unit 2, Independent Spent Fuel Storage Installation Notice of Docketing Of Materials License SNM–2508 Amendment; Application

By letter dated March 26, 2001, the U.S. Department of Energy (DOE) submitted an application to the Nuclear Regulatory Commission (NRC or the Commission), in accordance with 10 CFR Part 72, requesting the amendment of the Three Mile Island, Unit 2 (TMI–2) independent spent fuel storage installation (ISFSI) license (SNM–2508) for the ISFSI located at Idaho Falls,

Idaho. DOE is seeking Commission approval to amend the materials license to correct an error in the number of fuel and filter canisters that can be stored at the ISFSI. The requested changes do not appear to affect the design, analyses, operation, maintenance, or surveillance of the ISFSI.

This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72–20 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

For further details with respect to this application, see the application dated March 26, 2001, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *Http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 29th day of March 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–8502 Filed 4–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–373 AND 50–374]

Exelon Generation Company, LLC; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 147 to Facility Operating License No. NPF–11 and Amendment No. 133 to Facility Operating License NPF–18, issued to Exelon Generation Company, LLC (the licensee), which revised the operating licenses and the Technical Specifications for operation of the LaSalle County Station, Units 1 and 2, respectively, located in LaSalle County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the current Technical Specifications (TS, Appendix A of the operating licenses) in their entirety with a set of improved TS (ITS) based on NUREG–1433, Revision 1, ''Standard Technical Specifications, General Electric Plants BWR/4,'' dated April 1995, NUREG–1434, Revision 1, ''Standard Technical Specifications, General Electric Plants BWR/6,'' dated April 1995, and guidance provided in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132). In addition, the amendments add new conditions to the operating licenses regarding the relocation of current TS requirements into licensee-controlled documents as part of the implementation of the ITS, and the schedule for the first performance of new and revised surveillance requirements (four conditions). The amendments also delete a license condition related to fuel movement, since its requirements have been incorporated into the ITS.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on February 16, 2001 (66 FR 10753). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (66 FR 16694).

For further details with respect to the action see (1) the application for amendment dated March 3, 2000, and supplemented by letters dated March 24, June 5 (two letters), July 18, July 31, September 1, September 22, October 5, October 9, November 20, and December 18, 2000; February 15, February 28, and March 7, 2001, (2) Amendment No. 147 to License No. NPF–11 and Amendment No. 133 to License No. NPF–18, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *(http://www.nrc.gov).*

Dated at Rockville, Maryland, this 30th day of March 2001.

For The Nuclear Regulatory Commission.

Stewart N. Bailey,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–8499 Filed 4–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 AND 50–249]

Exelon Generation Company, LLC; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 185 to Facility Operating License No. DPR–19 and Amendment No. 180 to Facility Operating License DPR–25, issued to Exelon Generation Company, LLC (the licensee), which revised the operating licenses and the Technical Specifications for operation of the Dresden Nuclear Power Station, Units 2 and 3, respectively, located in Grundy County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the current Technical Specifications (TS, Appendix A of the operating licenses) in their entirety with a set of improved TS (ITS) based on NUREG–1433, Revision 1, ''Standard Technical Specifications, General Electric Plants BWR/4,'' dated April 1995, and on guidance provided in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132). In addition, the amendments add new conditions to the operating licenses regarding (1) the relocation of current TS requirements into licensee-controlled documents as

part of the implementation of the ITS, (2) the schedule for the first performance of new and revised surveillance requirements (four conditions), and (3) continued operation with a current TS setpoint until an outage of sufficient duration permits a change to the setpoint (Unit 2 only).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on February 16, 2001 (66 FR 10756). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (66 FR 16689).

For further details with respect to the action see (1) the application for amendment dated March 3, 2000, and supplemented by letters dated March 24, June 5 (two letters), July 18, July 31, September 1, September 22, October 5, October 9, November 20, and December 18, 2000; and February 15 and February 28, 2001, (2) Amendment No. 185 to License No. DPR–19 and Amendment No. 180 to License No. DPR–25, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 30th day of March 2001.

For The Nuclear Regulatory Commission.

Stewart N. Bailey,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–8500 Filed 4–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–17]

Trojan Nuclear Plant; Notice of Docketing of Materials License No. SNM–2509, Amendment Application for the Trojan Independent Spent Fuel Storage Installation

By letter dated February 19, 2001, Portland General Electric Company (PGE) submitted an application to the Nuclear Regulatory Commission (NRC or the Commission) in accordance with 10 CFR part 72 requesting an amendment of the Trojan Nuclear Plant independent spent fuel storage installation (ISFSI) license (SNM–2509) for the ISFSI located in Columbia County, Oregon. PGE is seeking Commission approval to revise the Trojan ISFSI Technical Specifications (Appendix A to the license) to conform to a change in the Code of Federal Regulations (10 CFR 72.48) which will become effective on April 5, 2001, and to make editorial corrections.

This application was docketed under 10 CFR part 72. The ISFSI Docket No. is 72–17 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

For further details with respect to this application, see the application dated February 19, 2001, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web Site at http://www.nrc.gov/NRC/ADAMS/index.html (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 29th day of March 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–8503 Filed 4–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting: May 8–9, 2001—Arlington, Virginia

Discussions of questions on important technical issues related to the DOE's Yucca Mountain site-evaluation efforts, including analysis of alternative repository designs, performance assessment of the natural and engineered components of a repository system, and evaluation of the effects of corrosion products on the waste package environment. Updates on scientific and engineering studies and on studies dating fluid inclusions at Yucca Mountain.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, on Tuesday, May 8, and Wednesday, May 9, 2001, the Nuclear Waste Technical Board (Board) will hold a meeting in Arlington, Virginia, to discuss U.S. Department of Energy (DOE) efforts to characterize a site at Yucca Mountain, Nevada, as the possible location of a permanent repository for spent nuclear fuel and high-level radioactive waste. At the meeting, the DOE will present updates on important aspects of its technical and scientific program by answering questions posed by the Board on important technical issues related to the evaluation of the Yucca Mountain site. The meeting is open to the public, and opportunities for public comment will be provided. The Board is charged by Congress with reviewing the technical and scientific validity of DOE activities related to managing spent nuclear fuel and high-level radioactive waste.

The Board meeting will be held at the Hilton Arlington & Towers; 950 North Stafford Street; Arlington, Virginia 22203. The telephone number is (703) 528–6000; the fax number is (703) 812–5127. The meeting sessions will start at 8 a.m. on both days.

The morning session on Tuesday, May 8, will begin with a general overview of the DOE program and a

briefing on revisions to the Yucca Mountain project's fiscal year 2001 work plan. These presentations will be followed by updates on the DOE's analysis of alternative repository designs, including the criteria used to compare and evaluate the designs, and on the DOE's uncertainty study interim report. After lunch, the DOE will discuss efforts to develop multiple lines of evidence for increasing confidence in the repository safety case. The DOE then will address Board questions related to performance assessment; first on aspects of the natural system and then on the engineered system. The questions on the natural system involve the long-term climate model and its possible effects on several aspects of repository performance assessment. The questions on the engineered barrier system (EBS) relate to differences in the performance of EBS components as designed and their performance as installed, to the potential consequences if weld treatment technologies needed for the waste packages are not perfected, to the effects of failure of the drip shields on repository and waste package performance, to the effects of corrosion products on the postclosure waste package environment, and to the effects on certain design parameters of a cooler repository design.

The session on Wednesday, May 9, will begin with an update of scientific and engineering activities at the Yucca Mountain site and will be followed by a briefing on corrosion investigations conducted by the Nuclear Regulatory Commission's Center for Nuclear Waste Regulatory Analysis. The Board then will hear from scientists from the University of Nevada-Las Vegas, the State of Nevada, the U.S. Geological Survey, and the Virginia Polytechnic Institute and State University on a joint DOE-State of Nevada study dating fluid inclusions at Yucca Mountain. The session is scheduled to end at approximately 1:15 p.m.

Opportunities for public comment will be provided before adjournment on both days. Those wanting to speak during the public comment periods are encouraged to sign the ''Public Comment Register'' at the check-in table. A time limit may have to be set on individual remarks, but written comments of any length may be submitted for the record. Interested parties also will have the opportunity to submit questions in writing to the Board. As time permits, the questions will be answered during the meeting.

A detailed agenda will be available approximately one week before the meeting. Copies of the agenda can be requested by telephone or obtained from the Board's Web site at www.nwtrb.gov. Beginning on June 11, 2001, transcripts of the meeting will be available on the Board's Web site, via e-mail, on computer disk, and on a library-loan basis in paper format from Davonya Barnes of the Board staff.

A block of rooms has been reserved at the Arlington Hilton & Towers. When making a reservation, please state that you are attending the Nuclear Waste Technical Review Board meeting. For more information, contact the NWTRB; Karyn Severson, External Affairs; 2300 Clarendon Boulevard, Suite 1300; Arlington, VA 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987. The Board's purpose is to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy related to managing the disposal of the nation's spent nuclear fuel and high level radioactive waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, to determine its suitability as the location of a potential repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

Dated: April 2, 2001.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 01–8476 Filed 4–5–01; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Extension: Rule 15a–6; SEC File No. 270–329; OMB Control No. 3235–0371]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15a–6 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) provides, among other things, an exemption from broker-dealer registration for foreign broker-dealers that effect trades with or for U.S. institutional investors through a U.S. registered broker-dealer, provided that the U.S. broker-dealers obtains certain information about, and consents to service of process from, the personnel of the foreign broker-dealer involved in such transactions, and maintains certain records in connection therewith.

These requirements are intended to ensure (a) that the U.S. broker-dealer will receive notice of the identity of, and has reviewed the background of, foreign personnel who will contact U.S. institutional investors, (b) that the foreign broker-dealer and its personnel effectively may be served with process in the event enforcement action is necessary, and (c) that the Commission has ready access to information concerning these persons and their U.S. securities activities.

It is estimated that approximately 2,000 respondents will incur an average burden of three hours per year to comply with this rule, for a total burden of 6,000 hours. At an average cost per hour of approximately $100, the resultant total cost of compliance for the respondents is $600,000 per year (2,000 entities × 3 hours/entity × $100/hour = $600,000).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 30, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8504 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24921]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

March 30, 2001.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of March, 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 24, 2001, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Pacific Innovations Trust

[File No. 811–7863]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 11, 2000, Applicant distributed all of its assets at net asset value to its shareholders in connection with Applicant's liquidation. The following expenses were incurred in connection with the liquidation: Legal expenses of $16,267; Accounting expenses of $1,500; Insurance tail coverage for directors of $32,500; Out-of-pocket costs of $2,062, and Final Tax Returns of $28,000. These expenses were paid by an affiliate of Bank of America N.A.

Filing Dates: The application was filed on August 28, 2000 and amended on March 28, 2001.

Applicant's Address: 103 Bellevue Parkway, Wilmington, Delaware 19809.

JWB Aggressive Growth Fund

[File No. 811–9132]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 18, 1999, applicant made a final liquidating distribution to its sole shareholder. Expenses of $7,209 incurred in connection with the liquidation were paid by JWB Investment Advisory & Research, applicant's investment adviser.

Filing Dates: The application was filed on March 8, 2001, and amended on March 20, 2001.

Applicant's Address: 810 Richards Street, Suite 123, Honolulu, HI 96813.

Firstar Stellar Funds (formerly Star Funds

[File No. 811–5762]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By December 11, 2000, each series of applicant had transferred its assets to Firstar Funds, Inc. based on net asset value. Expenses of $1,000,808 incurred in connection with the reorganization were paid by Firstar Investment Research & Management Company, LLC, investment adviser to applicant and the acquiring fund.

Filing Dates: The application was filed on February 13, 2001, and amended on March 9, 2001.

Applicant's Address: 615 East Michigan Street, Milwaukee, WI 53202.

Managed Securities Plus Fund, Inc.

[File No. 811–8045]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 8, 2000, applicant made a final liquidating distribution to its shareholders based on net asset value. Prior to the liquidation date, applicant's floating rate notes were redeemed in accordance with their terms and applicant's preferred stock was redeemed in accordance with its terms and paid the full liquidation preference plus all accrued dividends. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on December 27, 2000, and amended on March 12, 2001.

Applicant's Address: 575 Lexington Avenue, 9th Floor, New York, NY 10022.

Debt Strategies Fund, Inc.

[File No. 811–8171]

Debt Strategies Fund III, Inc.

[File No. 811–8823]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 6, 2000, each applicant transferred its assets to Debt Strategies Fund, Inc. (formerly Debt Strategies Fund II, Inc.) based on net asset value. Total expenses of $976,107 were incurred in connection with the reorganizations and were paid by the acquiring fund.

Filing Date: The applications were filed on February 16, 2001.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, NJ 08536.

The Achievement Funds Trust

[File No. 811–5712]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 26, 2001, applicant transferred its assets to Wells Fargo Funds Trust based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Date: The application was filed on March 7, 2001.

Applicant's Address: One Freedom Valley Dr., Oaks, PA 19456.

Prudential Employees Limited Partnership 1986

[File No. 811–4561]

Prudential Employees Limited Partnership 1987

[File No. 811–5156]

Prudential Employees Limited Partnership 1988

[File No. 811–5393]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On July 20, 1999, August 14, 1997, and December 3, 1997, respectively, applicants made a liquidating distribution to their shareholders based on net asset value. Expenses of $7,205, $2,239 and $4,624, respectively, incurred in connection with the liquidations were paid by each applicant.

Filing Dates: The applications were filed on January 10, 2001, and amended on March 6, 2001.

Applicants Address: 6200 S. Syracuse Way, Suite 100, Englewood, Colorado 80111.

Summit Funds Management Corporation

[File No. 811–10009]

Summary: Applicant, a closed-end management investment company, seeks an order declaring that it has ceased to be an investment company. On February 27, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $7,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on February 28, 2001.

Applicant's Address: 2 Crossfield Avenue, West Nyack, NY 10994.

Nuveen Tax Exempt Unit Trust Series 2

[File No. 811–1030]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On September 15, 1999, applicant made a liquidating distribution to its shareholders based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on February 28, 2001.

Applicant's Address: 333 West Wacker Drive, Chicago, IL 60606.

Managed High Yield Fund Inc.

[File No. 811–7804]

Summary: Applicant, a closed-end management investment company, seeks an order declaring that it has ceased to be an investment company. On June 2, 2000, applicant transferred its assets to Managed High Yield Plus Fund Inc. based on net asset value. Expenses of $214,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on March 5, 2001.

Applicant's Address: 51 West 52nd Street, New York, NY 10019–6114.

Merrill Lynch Convertible Fund, Inc.

[File No. 811–4311]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 18, 2000, applicant transferred its assets to Merrill Lynch Balanced Capital Fund, Inc. based on net asset value. Expenses of $163,986 incurred in connection with the reorganization were paid by Merrill Lynch Investment Managers, LLP, applicant's investment adviser.

Filing Date: The application was filed on February 21, 2001.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, NJ 08536.

Fortis Fiduiciary Fund, Inc.

[File No. 811–3269]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 22, 1998, applicant transferred its assets to Fortis Capital Fund, a portfolio of Fortis Equity Portfolios, Inc., based on net asset value. Expenses of $112,926 incurred in connection with the reorganization were paid pro rata by applicant and the acquiring fund.

Filing Dates: The application was filed on December 27, 2000, and amended on March 5, 2001.

Applicant's Address: 500 Beilenberg Drive, Woodbury, Minnesota 55125.

Van Kampen American Capital Municipal Bond Fund

[File No. 811–2683];

Van Kampen Merritt Money Market Trust

[File No. 811–3514];

Van Kampen American Capital Texas Tax Free Income Fund

[File No. 811–6464];

Van Kampen American Capital Utilities Income Fund

[File No. 811–7998];

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 22, 1995, Van Kampen American Capital Municipal Bond Fund transferred its assets to Van Kampen Municipal Income fund based on net asset value. On September 22, 1995, Van Kampen Merritt Money Market Trust transferred its assets to Van Kampen Reserve Fund based on net asset value. On October 25, 1996, Van Kampen American Capital Texas Tax Free Income Fund transferred its assets to Van Kampen Municipal Income Fund based on net asset value. On September 27, 1995, Van Kampen American Capital Utilities Income Fund transferred its assets to Van Kampen Utility Fund based on net asset value. Expenses of $100, $100, $160, and $100, respectively, incurred in connection with the reorganizations were paid by the investment adviser to each applicant, Van Kampen Asset Management Inc.

Filing Dates: The applications were filed on January 8, 2001, and amended on March 1, 2001. Van Kampen American Capital Municipal Bond Fund filed a second amendment to its application on March 20, 2001.

Applicants' Address: 1 Parkview Plaza, PO Box 5555, Oakbrook Terrace, Illinois 60181–5555.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8468 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24922; File No. 812–12336]

Barr Rosenberg Series Trust, et al.

March 30, 2001.

AGENCY: Securities and Exchange Commission (the ''Commission'' or ''SEC'')

ACTION: Notice of application for an order pursuant to Section 17(b) of the Investment Company Act of 1940 (the ''1940 Act'') for an exemption from Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: The Applicants seek an order to permit the sale of substantially all the assets of the Barr Rosenberg VIT Market Neutral Fund to the AXA Rosenberg Value Market Neutral Fund (the ''Merger'').

APPLICANTS: Barr Rosenberg Variable Insurance Trust (the ''VIT''), on behalf of its Barr Rosenberg VIT Market Neutral Fund (the ''VIT Fund''), Barr Rosenberg Series Trust (the ''Series Trust'' and, together with the VIT, the ''Trust''), on behalf of its AXA Rosenberg Value Market Neutral Fund (the ''Value Fund'' and, together with the VIT Fund, the ''Funds''), the Funds' investment adviser, AXA Rosenberg Investment Management LLC (the ''Adviser'') and the VIT Fund's sole shareholder and the parent company to the Adviser, AXA Rosenberg Group LLC, (''AXA Rosenberg Group'' and, together with the Trusts, the Funds and the Adviser, the ''Applicants'').

FILING DATE: The application was filed on November 21, 2000, and amended and restated on March 29, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 24, 2001, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants: c/o Joseph B. Kittredge Jr., Esq., Ropes & Gray, One International Place, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Martha Atkins, Attorney, at (202) 942–0668, or Keith Carpenter, Branch Chief, at (202) 942–0679, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Series trust is a Massachusetts business trust organized under the laws of The Commonwealth of Massachusetts and is registered on Form N–1A under the 1940 Act as a diversified, open-end management investment company. The Series Trust has issued shares of beneficial interest in ten series, each of which represents an interest in a different investment portfolio. Each series of the Series Trust, including the Value Fund, is managed by the Adviser.

2. The Value Fund's investment objective is to increase the value of an investment in bull markets and in bear markets through strategies designed to maintain limited net exposure to general equity market risk. It seeks to achieve its investment objective by buying common stocks that the Adviser believes are undervalued and by ''selling short'' stocks that the Adviser believes are overvalued. The Value Fund seeks to have approximately equal dollar amounts invested in long and short positions and near neutral exposure to specific industries, specific capitalization ranges and certain other risk factors. The Value fund invests primarily in stocks that are principally traded in the markets of the United States, and measures its performance by a comparison to 3-month U.S. Treasury Bills.

3. The VIT is a Massachusetts business trust organized under the laws of The Commonwealth of Massachusetts and is registered on Form N–1A under the 1940 Act as a diversified, open-end management investment company. The sole series of the VIT is the VIT Fund, which is managed by the Adviser.

4. AXA Rosenberg Group, a holding company for the AXA Rosenberg businesses, is the sole member and 100% owner of the Adviser and as such may be deemed an affiliate of the Adviser under the 1940 Act. AXA Rosenberg Group is a controlling shareholder of the VIT Fund and therefore may be deemed an affiliate of the Value Fund by virtue of its beneficial ownership, as of January 31, 2001, of 100% of the outstanding voting securities of the VIT Fund.

5. The VIT Fund was originally launched by the VIT as a clone of its retail counterpart, the Value Fund. Accordingly, the investment objective and strategies of the VIT Fund are substantially identical to those of the Value Fund as described above.

6. The Adviser is the investment adviser to both Trusts and the Funds. The Adviser is responsible for making investment decisions for the Funds and managing the Funds' other affairs and business, subject to the supervision of the Trust's Board of Trustees. The Adviser also provides investment advisory services to a number of institutional investors as well as the other portfolios of the Series Trust.

7. Since its inception, the VIT Fund has never achieved returns sufficient to enable the Adviser to market its shares successfully to insurance company separate accounts. Consequently, the Adviser continues to incur the substantial costs of maintaining the VIT Fund, even though its asset base has never grown beyond the contributions of AXA Rosenberg Group. Given its historical record, the VIT Fund is unlikely to attract insurance companies to utilize it as a funding vehicle for variable products and thus is expected to present a constant drain on the Adviser's assets while providing no benefit to the investing public.

8. The Trusts are proposing to effect the Merger pursuant to an Agreement and Plan of Reorganization (the ''Plan''). The Plan provides that substantially all of the assets, subject to the liabilities, of the VIT Fund will be sold to the Value Fund. The Plan further provides that, as payment for such assets, the Value Fund will issue to the VIT Fund a number of its Institutional Shares having an aggregate net asset value equal to the aggregate value of the net assets of the VIT Fund exchanged therefor. Those Institutional Shares of the Value Fund will then be distributed to AXA Rosenberg Group, as the VIT Fund's sole shareholder. The value of the assets of both Funds will be calculated in accordance with the Series Trust's valuation procedures as set forth in the Series Trust's registration statement, which are the same as those set forth in the VIT's registration statement and are similar to those suggested under Rule 17a–7 under the 1940 Act. No sales charge or fee of any kind will be charged to the Value Fund's shareholders in connection with the Merger.

9. The Agreement and Declaration of Trust of the VIT, as amended, provides that the Trust's Board of Trustees must approve a sale of substantially all the assets of any series of the VIT and that the Board of Trustees may submit such matters to the shareholders of the VIT Fund, which it has done. AXA Rosenberg Group, as the sole shareholder of the VIT Fund, has indicated that it will approve the Merger, and therefore it is intended that there will be no proxy solicitation in connection therewith. Instead, the VIT has filed a registration and information statement with the Commission on Form N–14 detailing the proposed Merger and intends to send the Prospectus/Information Statement contained therein to AXA Rosenberg Group shortly after such registration and information statement becomes effective.

10. The terms of the proposed Merger were presented to the Trusts' Board of Trustees at their meeting on December 4, 2000. At that time, the Board determined that the Merger is in the best interests of the shareholders of the Value Fund and the shareholder of the VIT Fund and that the interests of the Value Fund's shareholders will not be diluted thereby, in each case as required under rule 17a–8 under the 1940 Act.

11. The Applicants believe that the Merger as proposed is consistent with the interests of the Value Fund's shareholders because the Funds have substantially identical investment objectives and strategies and because the injection of additional capital into the Value Fund is expected to increase economies of scale for its shareholders to the extent that certain of the Value Fund's expenses are fixed and do not vary with asset size.

12. Applicants agree that the terms of and conditions to the issuance of an order granting the section 17(b) exemption requested by the Applicants are that:

(a) The Trusts' Board of Trustees, including a majority of the Trusts' independent Trustees voting separately, has determined (1) that participation in the Merger is in the best interests of each of the VIT Fund and the Value Fund, and (2) that the interests of the Value Fund's shareholders will not be diluted as a result of the Merger;

(b) All securities positions valued in connection with the Merger will be

consistently valued in accordance with the Series Trust's valuation procedures, which are substantially identical to those of the VIT and similar to those suggested under Rule 17a–7 under the 1940 Act; and

(c) The Merger will be reviewed during the following quarter by the Series Trust's Trustees, including the independent Trustees, for purposes of determining that the condition set forth in (b) above has been met.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8467 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24923; File No. 812–12376]

American General Life Insurance Company, et al.

March 30, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'')

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940, as amended (the ''Act''), approving certain substitutions of securities.

APPLICANTS: American General Life Insurance Company (''American General''), American General Life Insurance Company Separate Account D (the ''AGL Separate Account''), Ameritas Variable Life Insurance Company (''Ameritas''), Ameritas Variable Life Insurance Company Separate Account VA–2 (the ''Ameritas VA Separate Account''), Ameritas Variable Life Insurance Company Separate Account V (the ''Ameritas VUL Separate Account,'' collectively with the Ameritas VA Separate Account, the ''Ameritas Separate Accounts''), Integrity Life Insurance Company (''Integrity'') Integrity Life Insurance Company Separate Account II (the ''Integrity Separate Account''), National Integrity Life Insurance Company (''National Integrity,'' collectively with American General, Ameritas and Integrity, the ''Insurance Company Applicants''), National Integrity Life Insurance Company Separate Account II (the ''National Integrity Separate Account,'' collectively with the AGL Separate Account, the Ameritas Separate Accounts and the Integrity Separate Account, the ''Separate Accounts,'' and collectively with the other Separate Accounts and the Insurance Company Applicants, ''Applicants'').

SUMMARY OF APPLICATION: Applicants request an order permitting the substitution (1) by the AGL Separate Account of shares of the Global Equity Portfolio (''Global Equity Portfolio'') for shares of the Asian Equity Portfolio (''Asian Equity Portfolio''); (2) by the Integrity Separate Account and the National Integrity Separate account (collectively, the ''Integrity Separate Accounts'') of shares of the Janus Aspen Worldwide Growth Portfolio—Institutional Shares (the ''Janus Wordwide Growth Portfolio'') for shares of the Asian Equity Portfolio; (3) by Ameritas VA Separate Account and the Ameritas VUL Separate Account of shares of the Global Equity Portfolio for shares of the Asian Equity Portfolio; and (4) by the Americas VA Separate Account and Americas VUL Separate Account of shares of the Variable Insurance Products—Initial Class (the ''Fidelity Overseas Portfolio'') for shares of the Asian Equity Portfolio. The Global Equity Portfolio, Janus Worldwide Growth Portfolio and Fidelity Overseas Portfolio are referred to herein as the ''Substitute Portfolios.''

FILING DATE: The application was filed on December 22, 2000, and amended and restated on March 16, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 24, 2001, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; American General and the AGL Separate Account, P.O. Box 1401, Houston, Texas, 77251–1401; Ameritas and the Ameritas Separate Accounts, 5900 ''O'' Street, Lincoln, Nebraska 68510 and Integrity, National Integrity, the Integrity Separate Account and the National Integrity Separate Account, P.O. Box 740074, Louisville, Kentucky 40202–3319.

FOR FURTHER INFORMATION CONTACT: Curtis A. Young, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. American General is a stock life insurance company organized under the laws of the State of Texas and is a successor in interest to a company originally organized under the laws of the State of Delaware in 1917. American General is an indirect, wholly-owned subsidiary of American General Corporation, a diversified financial services holding company engaged primarily in the insurance business.

2. The AGL Separate Account was established in 1973 by American General. The AGL Separate Account is a separate account under Texas law that is used for the purpose of funding variable annuity contracts issued by American General. The ''Generations®'' variable annuity contract (File No. 33–433890) is the only American General contract affected by this application (the ''AGL VA Contract''). The AGL Separate Account is registered under the Act as a unit investment trust (File No. 811–2441).

3. Ameritas is a stock life insurance company organized in the State of Nebraska in 1983. Ameritas is a wholly-owned subsidiary of AMAL Corporation, a Nebraska stock company. AMAL Corporation is a joint venture of Ameritas Life Insurance Corp, a Nebraska stock life insurance company that owns a majority interest in AMAL Corporation, and AmerUs Life Insurance Company, an Iowa stock life insurance company that owns a minority interest in AMAL Corporation.

4. The Ameritas VA Separate Account was established in 1987 under Nebraska law. The Americas VA Separate Account is registered under the Act as a unit investment trust (File No. 811–05192) and is used to fund variable annuity contracts issued by Ameritas. Six variable annuity contrasts issued by Ameritas (File Nos. 333–46675, 333–36507, 33–14774, 33–33844, 33–58642 and 33–98848) (the ''Ameritas VA Contracts'') are affected by this application.

5. The Americas VUL Separate Account was established in 1985 under

Nebraska law. The Ameritas VUL Separate Account is registered under the Act as a unit investment trust (File No. 811–04473) and is used to fund variable life insurance policies issued by Ameritas. Six variable universal life insurance contracts (File Nos. 33–30019, 333–14845, 333–71505, 333–15585, 33–01576 and 333–95163) (the ''Ameritas VUL Contracts'') are affected by this application.

6. Integrity is a stock life insurance company organized under the laws of Ohio. Integrity is a subsidiary of Western and Southern Life Insurance Company, a mutual life insurance company originally organized under the laws of Ohio in 1888.

7. The Integrity Separate Account was established under Ohio law in 1992. The Integrity Separate Account is registered under the Act as a unit investment trust (File No. 811–7134) and is used to fund variable annuity contracts issued by Integrity. One variable annuity contract (File No. 33–51268) (the ''Integrity Contract'') is affected by this application.

8. National Integrity is a stock life insurance company organized under the laws of New York. National Integrity is a direct subsidiary of Integrity and an indirect subsidiary of Western and Southern Life Insurance Company.

9. The National Integrity Separate Account was established under New York law in 1992. The National Integrity Separate Account is registered under the Act as a unit investment trust (File No. 811–7132) and is used to fund variable annuity contracts issued by National Integrity. One variable annuity contract File No. 33–51126) (the ''National Integrity Contract,'' collectively with the AGL VA Contract, Ameritas VA Contracts, Ameritas VUL Contracts, and Integrity Contract, the ''Contracts'') is affected by this application.

10. Purchase payments for the Contracts are allocated to one or more subaccounts of the Separate Accounts (''Subaccounts''). Income, gains and losses, whether or not realized, from assets allocated to the Separate Accounts are, as provided in the Contracts, credited to or charged against the Separate Account without regard to other income, gains or losses of the respective Insurance Company Applicants. The assets maintained in the Separate Accounts will not be charged with any liabilities arising out of any other business conducted by the respective Insurance Company Applicants. Nevertheless, all obligations arising under the Contracts, including the commitment to make annuity payments or death benefit payments, are general corporate obligations of the respective Insurance Company Applicants. Accordingly, all of the assets of each Insurance Company Applicant are available to meet its obligations under its Contracts. Each Separate Account meets the definition of ''separate account'' contained in Section 2(a)(37) of the Act.

11. Each of the Contracts permits allocations of accumulation value to available Subaccounts that invest in specific investment portfolios (''Portfolios'') of underlying mutual funds. At the time of filing the application, the AGL VA Contract had a total of 17 Portfolios available, the Ameritas VA Contracts and Ameritas VUL Contracts each had a total of 31 Portfolios, and the Integrity and National Integrity Contracts each had a total of 34 Portfolios. One Subaccount of each Contract invests in the Asian Equity Portfolio of The Universal Institutional Funds, Inc. (''Universal Funds'').

12. Each Contract permits transfers of accumulation value from one Subaccount to another Subaccount of the issuing Separate Account at any time prior to annuitization, subject to certain restrictions and charges described below. No sales charge applies to such a transfer of accumulation value among Subaccounts.

13. The AGL VA Contract permits up to 12 free transfers in a contract year. A fee of $25 may be imposed on transfers in excess of 12 in a contract year. Transfers that cause the amount remaining in a Subaccount to be less than $500 are treated as requests to transfer the entire amount in that Subaccount.

14. Each Ameritas VA Contract and each Ameritas VUL Contract permits up to 15 free transfers during any contract year. A fee of $10 may be imposed on transfers in excess of 15 in a contract year. Each transfer must be at least $250 or, if less, the entire amount in the Subaccount from which values are to be transferred. Because at least $100 must remain in a Subaccount after a transfer, a request to transfer values from a Subaccount with $350 or less in it is treated as a request to transfer the full amount in that Subaccount.

15. The Integrity and National Integrity Contracts permit up to 12 free transfers during any contract year. A fee of $20 may be imposed on transfers in excess of 12 in a contract year. Transfers must be at least $250, or, if less, the entire amount in the Subaccount from which values are to be transferred.

16. The AGL VA Contract reserves the right, upon notice to Contract owners, to add, combine or remove Subaccounts and to substitute, for the shares held in any Subaccount, the shares of another Portfolio or the shares of another underlying mutual fund.

17. Each of the Ameritas VA Contracts and Ameritas VUL Contracts reserves the right to add, delete, combine or substitute Subaccounts of the Ameritas Separate Accounts. Ameritas Contract owners will be notified of any such action (for example, the Substitutions proposed herein) that materially affects a Subaccount in which they have an interest.

18. The Integrity and National Integrity Contracts each reserves the right, upon notice to Contract owners, to add, combine or remove Subaccounts, or to withdraw assets from one Subaccount and put them into another Subaccount.

19. The Asian Equity Portfolio is a separate investment portfolio of the Universal Funds, an open-end management investment company registered under the Act (File Nos. 811–7607 and 333–03013), and is currently an investment option under all of the Contracts. The Asian Equity Portfolio is managed by Morgan Stanley Asset Management (''MSAM'').

20. The investment objective of the Asian Equity Portfolio is to seek long-term capital appreciation by investing primarily in equity securities of Asian issuers. The total expenses of the Asian Equity Portfolio for the fiscal year ended December 31, 2000, were 1.33% (on an annual basis) of average daily net assets. Absent voluntary reimbursements by MSAM, those expenses would have been 2.97%. The average annual total returns of the Asian Equity Portfolio (exclusive of Contract or Subaccount charges) were −44.38% for the year ended December 31, 2000, and −15.33% for the period from its inception on March 3, 1997, through December 31, 2000.

21. MSAM has indicated to the board of directors of the Universal Funds and to the Insurance Company Applicants that the small size of the Asian Equity Portfolio makes it difficult to manage efficiently. The board of directors of the Universal Funds concluded, in a meeting held on September 12, 2000, that it would be prudent to work with the Insurance Company Applicants to evaluate the steps necessary to liquidate the Asian Equity Portfolio in a timely and orderly manner.

22. The Global Equity Portfolio is another separate investment portfolio of the Universal Funds and is currently an investment option under all of the Contracts other than the Integrity and National Integrity Contracts. The Global Equity Portfolio is managed by MSAM.

The investment objective of the Global Equity Portfolio is to seek long-term capital appreciation by investing primarily in equity securities of issuers throughout the world, including U.S. issuers. The total expenses of the Global Equity Portfolio for the fiscal year ended December 31, 2000, were 1.15% (on an annual basis) of average daily net assets. Absent voluntary reimbursements by MSAM, those expenses would have been 1.43%. The average annual total returns of the Global Equity Portfolio (exclusive of Contract or Subaccount charges) were 11.46% for the year ended December 31, 2000, and 12.13% for the period from its inception on January 2, 1997, through December 31, 2000.

23. Janus Worldwide Growth Portfolio is a separate investment portfolio of Janus Aspen Series, a registered open end management investment company (File Nos. 811–7736 and 33–63212). Janus Worldwide Growth Portfolio is currently an investment option under the Integrity and National Integrity Contracts. Janus Worldwide Growth Portfolio is managed by Janus Capital Corporation. The investment objective of Janus Worldwide Growth Portfolio is to seek long-term growth of capital in a manner consistent with the preservation of capital. It pursues its objective by investing primarily in common stocks of companies of any size throughout the world. It normally invests in issuers from at least five different countries, including the United States, although from time to time it may invest in fewer than five countries, or even a single country. The total expenses of Janus Worldwide Growth Portfolio for the year ended December 31, 2000, were 0.69%. The average annual total returns of Janus Worldwide Growth Portfolio were—15.67% for the one-year period ended December 31, 2000, 19.39% for the five-year period ending on that date and 22.28% for the period from the inception of that Portfolio to December 31, 2000.

24. Fidelity Overseas Portfolio is a separate investment portfolio of Variable Insurance Products Fund (File Nos. 811–3329 and 2–75010) and is currently an investment option under five Ameritas VA Contracts (File Nos. 333–36507, 33–14774, 33–33844, 33–58642 and 33–98848) and four Ameritas VUL Contracts (File Nos. 33–30019, 333–14845, 333–15585 and 33–01576). The Fidelity Overseas Portfolio is managed by Fidelity Management and Research Company. The investment objective of the Fidelity Overseas Portfolio is to seek long-term growth of capital. It pursues its objective by investing at least 65% of its total assets in foreign securities, normally common stocks. The total expenses of the Fidelity Overseas Portfolio for the ended December 31, 2000, were 0.89%. The average annual total returns of the Fidelity Overseas Portfolio were 19.07% for the year ended December 31, 2000, 10.44% respectively for the five-year period ended on that date and 9.28% for the ten-year period ended on that date.

25. Applicants seek an order permitting the substitution:

(a) By the American General Subaccount of shares of the Global Equity Portfolio for shares of the Asian Equity Portfolio (a ''Global Equity Substitution'');

(b) By the Integrity and National Integrity Subaccounts of shares of the Janus Worldwide Growth Portfolio for shares of the Asian Equity Portfolio (the ''Janus Substitution'');

(c) By the Ameritas VA Subaccount and the Ameritas VUL Subaccount of shares of the Global Equity Portfolio for shares of the Asian Equity Portfolio held in connection with one Ameritas VA Contract (File No. 333–46675) and two Ameritas VUL Contracts (File Nos. 333–71505 and 333–95163) (a ''Global Equity Substitution''); and

(d) By the Ameritas VA Subaccount and the Ameritas VUL Subaccount of shares of the Fidelity Overseas Portfolio for shares of the Asian Equity Portfolio held in connection with the remaining five Ameritas VA Contracts and four Ameritas VUL Contracts.

26. Each Substitution will take place at the applicable Portfolios' relative net asset values determined on the date of the Substitutions in accordance with section 22 of the Act and Rule 22c–1 thereunder. Accordingly, there will be no financial impact to any Contract owner. Each Substitution will be effected by having each Subaccount that invests in the Asian Equity Portfolio redeem its shares of the Asian Equity Portfolio at the net asset value calculated on the date of the Substitutions and purchase shares of the appropriate Substitute Portfolio at the net asset value calculated on the same date.

27. The Substitutions requested in this application will be described in supplements to the prospectuses for the Contracts (''Stickers'') filed with the Commission and mailed to Contract owners. Each Sticker will give the relevant contract owners notice of the Substitution that would affect their Contract and will describe the reasons for engaging in that Substitution. The Stickers will also inform existing Contract owners with values allocated to a Subaccount investing in the Asian Equity Portfolio that no amounts may be allocated to the Subaccounts that invest in that Portfolio on or after the date of substitution. In addition, the Stickers will inform these affected Contract owners that they will have an opportunity to reallocate accumulation value:

- Prior to the Substitutions, from the Subaccounts investing in the Asian Equity Portfolio, or
- For 30 days after the Substitutions, from the Subaccounts investing in the relevant Substitute Portfolio to Subaccounts investing in other Portfolios available under the respective Contracts,

Without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year.

28. The prospectuses for the Contracts, as modified by the Stickers, will reflect the Substitutions. Each Contract owner will have been provided a prospectus for the relevant Substitute Portfolio before the Substitutions. Within five days after the Substitutions, each Insurance Company Applicant will send to affected Contract owners written confirmation that the Substitutions have occurred. That confirmation will reiterate the free transfer rights disclosed in the Sticker.

29. The Insurance Company Applicants will pay all expenses and transaction costs of the Substitutions, including all legal, accounting and brokerage expenses relating to the Substitutions or this amended and restated application. MSAM has agreed to reimburse the Insurance Company Applicants for all of those costs. No costs will be borne by contract owners. Affected Contract owners will not incur any fees or charges as result of the Substitutions, nor will their rights or the obligations of the Insurance Company Applicants under the Contracts be altered in any way. The Substitutions will not cause the fees and charges under the Contracts currently being paid by contract owners to be greater after the Substitutions than before the Substitutions.

Applicants' Legal Analysis

1. Applicants believe that their request satisfies the standards for relief of Section 26(b) of the Act because:

- After each Substitution, affected Contract owners will have Contract values allocated to a Subaccount investing in the available Portfolio with investment policies that most closely resemble the Asian Equity Portfolio's investment policies, that is less expensive than the Asian Equity Portfolio and that has had better

performance than the Asian Equity Portfolio; and

• Absent the Substitutions, Contract owners would have Contract values allocated to a Portfolio whose expenses could reasonably be expected to increase, which could negatively impact its performance.

2. The legislative history makes clear that the purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a Contract owner forced to redeem may suffer adverse tax consequences. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. The purposes, terms and conditions of the Substitutions are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Substitution is a necessary and appropriate solution to a situation where, because a Portfolio is being, or likely to be, liquidated by its Board of Directors, continued investment in that Portfolio will, or likely will, not remain possible. The Commission has routinely approved substitutions involving incipient liquidations. Moreover, each Insurance Company Applicant has reserved the right to make such a Substitution in the respective Contracts and each has disclosed this reserved right in the prospectuses for the respective Contracts.

4. The Substitutions will not result in the type of costly forced redemption that Section 26(b) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the Act:

(a) In the case of each Substitution, the Substitute Portfolio is an appropriate Portfolio to which to move the contract values of Contract owners with values allocated to the Asian Equity Portfolio because its investment objective, like that of the Asian Equity Portfolio, involves seeking long-term capital appreciation by investing in foreign equity securities.

(b) The costs of the Substitutions will be borne by the Insurance Company Applicants and will not be borne by Contract owners. No charges will be assessed to the Contract owners to effect the Substitutions.

(c) The Substitutions will, in all cases, be at net asset values of the respective shares, without the imposition of any transfer or similar charge and with no change in the amount of any Contract owner's accumulation value.

(d) The Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the Substitutions than before the Substitutions and in each case will result in Contract owners' contract values being moved to a Portfolio with lower expenses than the expenses of the Asian Equity Portfolio.

(e) All Contract owners will be given notice of the Substitutions prior to the Substitutions and will have an opportunity to reallocate accumulation value among other available Subaccounts without the imposition of any transfer charge or limitation. Neither of the following categories of transfers will count against a Contract owner's free transfers in a contract year:

• Transfers of accumulation value from a Subaccount investing in the Asian Equity Portfolio from the date of notice through the date of the Substitutions, and

• Transfers to another Subaccount of accumulation value that had been transferred to a Subaccount that invests in a Substitute Portfolio as a result of the Substitutions, for 30 days after the Substitutions.

(f) Within five days after the Substitutions, each Insurance Company Applicant will send to its Contract owners written confirmation that the Substitutions have occurred.

(g) The Substitutions will in no way alter the insurance benefits to Contract owners or the contractual obligations of the Insurance Company Applicants.

(h) The Substitutions will in no way alter the tax benefits to Contract owners and no tax liability will be created for Contract owners as a result of the Substitutions.

5. Substitutions have been common where the substitute fund has investment objectives and policies that are similar to those of the eliminated fund, expenses lower than those of the eliminated fund and performance similar to or better than that of the eliminated fund. To the extent that there are differences between the investment objectives and policies of the Asian Equity Portfolio and those of a Substitute Portfolio, it represents a move to a more geographically diversified (and thus more conservative) portfolio. In the Janus Substitution, the Substitute Portfolio also is more conservative because that Portfolio seeks capital preservation in addition to capital growth. Where the investment objectives and policies of the substitute fund were more conservative than those of the eliminated fund, applicants have been permitted some leeway with regard to how close the investment objectives and policies of a substitute fund must be to those of the eliminated fund. For example, an international growth portfolio has been permitted to be substituted for an emerging markets portfolio, a fund that could invest no more than 25% of its assets in foreign securities was permitted to be substituted for a fund that invested at least 65% of its assets in foreign securities, and a fund seeking to maximize total return by actively allocating assets among sub-portfolios consisting of a global equity portfolio, a global bond portfolio, a capital appreciation portfolio and a money market portfolio was permitted to be substituted for a foreign securities portfolio that sought long-term capital appreciation by investing in equity securities of foreign issuers.

Conclusion

Applicants request an order of the Commission pursuant to section 26(b) of the Act approving the proposed Substitutions. Section 26(b), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons and upon the facts set forth above, the requested orders meet the standards set forth in section 26(b) and should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44143; File No. SR–Amex–01–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Fees on Transactions of the Specialist and Registered Option Traders in Nasdaq 100 Index Options

April 2, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which the Amex has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to impose a $0.40 equity option marketing fee on the transactions of the specialist and registered options traders (''ROTs'') in options on the Nasdaq 100 Index shares, which trade under the symbol ''QQQ,'' and to decrease the separate transaction fee that is imposed on some transactions in QQQ options from $0.47 to $0.27 per contract.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In August 2000 the Amex filed two proposed rule changes under section 19(b)(3)(A)(ii) of the Act[3] that imposed transaction fees on specialists and ROTs. One proposal imposed a new equity option marketing fee of $0.40 on transactions of specialist and ROTs, excluding transactions in QQQ options, and allowed the specialists to use the proceeds from the marketing fee to attract order flow in equity options traded on the Amex.[4] The other proposal increased, from $0.17 to $0.47 per contract, the fee imposed on the specialist and ROTs for transactions in QQQ options in which a public customer (defined as a non-broker-dealer) is a party to the trade.[5] The Amex now proposed to apply the equity option marketing fee to the transactions of the specialist and ROTs in QQQ options, and to decrease from $0.47 to $0.27 per contract the fee that the Amex imposes on the specialist and ROTs for transactions in QQQ options that involve a public customer.

a. *Application of the Marketing Fee.* Consistent with the program currently in place for all other equity options, the Amex will collect a fee of $0.40 on every QQQ option contract that the specialist and ROTs execute on the Exchange, with the exception that trades between ROTs and trades between the specialist and ROTs will not be subject to the program. The Amex will collect the fees and then allocate the funds to the specialist in QQQ options. The specialist in turn will use the funds to attract orders in the classes of options that the specialist trades. The specialist may use the funds to pay broker-dealers for orders that they direct to the Amex for execution. The specific terms governing the orders that qualify for payment, and the amount of any payment to be made, will be determined by the specialist in whatever manner the specialist believes is most likely to be effective in attracting order flow to the Amex in the options that the specialist trades. The specialist will be obligated to account to the Amex for its use of the funds made available for this purpose, but the specialist, and not the Amex, will make all determinations concerning the amount paid for orders and the types and sizes of orders that qualify for payment.

This marketing fee will be assessed monthly, beginning as of March 1, 2001. The Amex will make the funds generated by the fee available to the QQQ option specialist for the specialist's use in attracting orders in the classes of options that are traded at the specialist's station. ROTs who contribute to the fees collected will also be able to participate in the order flow derived from the program. The Amex believes that there will be a fair correlation between the fees that the specialist and the ROTs contribute to the program and the benefits that they will receive from it.

Under the program, the Amex provides administrative support to the QQQ option specialist in such matters as keeping tract of the number of qualified orders that each firm directs to the Exchange, and making debits and credits to the accounts of the specialist and the firms to reflect the payments that are to be made. The Amex may pay such amounts directly to the member order flow provider (pursuant to payment parameters that the specialist establishes) if the amount of the payment that the order flow provider is to receive would exceed any fees that it owes to the Amex.

The Amex believes that the application of the program to QQQ options is necessary to promote the Amex's competitiveness with other exchanges that trade the QQQ options.

b. *Decrease in Other Transaction Fee.* The Amex currently imposes a transaction fee on options trades executed on the Exchange, with the charges varying depending on whether the transaction involves an equity or index option and whether the transaction is executed for a specialist or market maker account, a member firm's proprietary account, a non-member broker-dealer, or a customer account. The Amex also imposes a charge for clearance of options trades and an options floor brokerage charge which depend upon the type of account for which the trade is executed. All three types of charges—transaction, options clearance, and options floor brokerage—are subject to caps on the number of options contracts subject to the charges on a given day.[6] Currently, no transaction, clearance, or floor brokerage fees are charged for customer equity option transactions.

To offset the costs of providing for the trading of QQQ options and to enhance the marketing of those options, the Amex currently charges the specialist and ROTs a fee of $0.47 per contract for transactions in which a public customer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 43228 (August 30, 2000), 65 FR 54330 (September 7, 2000) (SR–Amex–00–38).

[5] *See* Securities Exchange Act Release No. 43152 (August 14, 2000), 65 FR 51376 (August 23, 2000) (SR–Amex–00–39).

[6] The current caps are set at 2,000 contracts for customer trades and 3,000 contracts for member firm proprietary, non-member broker-dealer, specialist, and market maker trades.

is a party to the trade.[7] The Amex now proposes to decrease the fee to $0.27. Options clearance and floor brokerage fees for the specialist and ROTs will remain unchanged at $0.04 and $0.03 per contract side, respectively. The Amex believes that the proposed decrease is necessary to allow for the application of $0.40 marketing fee on QQQ options.

2. *Statutory Basis.* The Amex believes that the proposed rule change is consistent with section 6(b) of the Act[8] in general and furthers the objectives of section 6(b)(4) of the Act[9] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received From Members, Participants or Others

The Amex did not solicit or receive any comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has designated the foregoing proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[10] and Rule 19b–4(f)(2) thereunder.[11] Accordingly, the proposal has become effective immediately upon filing with the Commission. At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–01–12 and should be submitted by April 27, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[7] The term public customer shall have the meaning set forth in Amex Rule 958A (*i.e.,* a non-broker-dealer).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44142; File No. SR–NASD–01–03]

Self, Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Elimination of the Interval Delay Between Executions for Initial Public Offerings and Secondary Offerings in the Nasdaq National Market Execution System

April 2, 2001.

I. Introduction

On January 5, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 10b–4 thereunder,[2] a proposed rule change, on a six-month pilot basis, to amend NASDd Rule 4710, ''Participant Obligations in NNMS,'' to eliminate the internal delay between executions against the same market maker at the same price level during the first day of trading of the securities of initial public offerings (''IPOs'') and secondary offerings in the Nasdaq National Market Execution System (''NNMS'' or ''SuperSOESS'').[3] On January 31, 2001, the NASD filed Amendment No. 1 to the proposed rule change.[4] The proposed rule change Amendment No. 1 were published for comment in the **Federal Register** on February 21, 2001.[5] No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The rules governing Nasdaq's Small Order Execution System (''SOES'') currently establish a delay of 17 seconds (15 seconds for quote management and two seconds for system processing) between executions against the same market maker in the same security at the same price level. This delay will be reduced to five seconds (plus two seconds system processing time) for the majority of Nasdaq NMS securities when Nasdaq implements SuperSOES. In response to market participants' concerns that significant order flow could potentially produce queuing within the the system, Nasdaq filed a rule change with the Commission in December 2000 to reduce the interval delay between executions in Nasdaq 100 Index securities to two seconds, commencing on the date that Nasdaq launches SuperSOES.[6]

Nasdaq filed the current proposal to address similar queuing concerns raised by market participants in connection with the rapid flow of orders accompanying IPOs and secondary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 14, 2000, the Commission approved the creation of SuperSOES, a new platform for trading Nasdaq National Market (''NNM'') securities. *See* Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3897 (January 25, 2000). SuperSOES will become Nasdaq's primary automatic execution trading platform. To date, Nasdaq has not implemented SuperSOES.

[4] *See* Letter from Thomas P. Moran, Assistant General Counsel, Nasdaq, to Jack Drogin, Assistant Director, Division of Market Regulation, Commission, dated January 30, 2001 (''Amendment No. 1''). In Amendment No. 1, the Nasdaq added a footnote to proposed NASD Rule 4710(b)(1)(D)(3) requiring the lead underwriter of a secondary offering to submit a written request to the Nasdaq Market Operations Department no later than the business day prior to the start of trading in the secondary offering to obtain immediate processing of executions in the secondary offering.

[5] *See* Securities Exchange Act Release No. 43958 (February 13, 2001), 66 FR 11076.

[6] *See* Securities Exchange Act Release No. 43720 (December 13, 2000), 65 FR 79909 (December 20, 2000) (notice of filing and immediate effectiveness of File No. SR–NASD–00–67) (''2000 Notice''). Nasdaq will implement the two-second interval delay on a six-month pilot basis.

offerings. Under the proposal, on the first day of trading of the securities of a SuperSOES-eligible IPO or secondary offering, after SuperSOES has executed an order against a market maker's displayed quote and reserve size (if applicable), the market maker will be required to execute another order at its posted bid or offer in that security as soon as SuperSOES delivers another order to the market maker's quote. Consequently, a market maker will be available for subsequently execution at its posted quote as quickly as the system can transmit instructions between the execution and quote-update engines, an operation that, according to Nasdaq, generally requires from one to one and one half seconds.

After the first day of trading in the IPO or secondary offering, the NNMS interval delay between executions against the same market maker at the same price level will be determined by whether or not the security is part of the Nasdaq 100 Index. Thus, on subsequent trading days, the NNMS interval delay between executions against the same market maker at the same price level for a Nasdaq 100 Index security would be two seconds and the NNMS interval delay between executions against the same market maker at the same price level for a security that is not a part of the Nasdaq 100 Index would be five seconds.[7]

Nasdaq proposes to implement the proposal on a six-month pilot basis beginning when SuperSOES become operational. During operation of the pilot program, Nasdaq represents that it will monitor the performance of the system under the proposed parameters to determine whether the proposed measures adequately address the concerns expressed by market participants.

Nasdaq believes that reducing the interval delay between executions on the first day of trading of NNMS-eligible IPOs and secondary offerings will ensure that customer orders for those securities are processed in the most expeditious manner possible. Nasdaq also believes that such processing will improve market function and aid in the price discovery process.

[7] Nasdaq will continue its current practice of using the same interval delay between multiple round-lot executions against the same market participant for odd-lot executions of that same security. For example, if the interval delay in a security is five seconds, the interval delay after an odd-lot execution would also be five seconds. In addition, Nasdaq represents that it will closely monitor odd-lot order entry activity in NNMS to ensure that such activity dos not adversely impact market quality.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8] In particular, the Commission finds that the proposal is consistent with section 15A(b)(6) of the Act[9] because it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

As discussed more fully above, the interval delay in SuperSOES will be two seconds for Nasdaq 100 Index securities and five seconds for all other Nasdaq NMS securities. In its proposal to establish a two-second interval delay for Nasdaq 100 Index securities, Nasdaq noted that market participants had expressed concern that a five-second interval delay could hinder the efficient and orderly operation of SuperSOES by causing a queuing of orders in securities with rapid order flow.[10]

According to Nasdaq, market participants have raised similar queuing concerns in connection with the rapid flow of orders accompanying IPOs and secondary offerings. The Commission believes that the current proposal responds to concerns raised by market participants and should help to minimize the queuing of orders for IPOs and secondary offerings on their first day of trading. The Commission believes that the prompt execution of orders for IPOs and secondary offerings may facilitate the price discovery process, to the benefit of all market participants.

Nasdaq proposes to implement the proposal on a six-month pilot basis, commencing with the launch of SuperSOES. The Commission believes that implementing the proposal on a six-month pilot basis should provide Nasdaq with time to evaluate the operation of the proposed changes and their impact on the market.

Amendment No. 1 requires the lead underwriter of a secondary offering to communicate to the Nasdaq Market Operations Department, no later than the business day prior to the start of the trading in the secondary offering, that it wishes to obtain immediate processing of executions in the secondary offering.[11] If the request is not made in a timely manner, the secondary offering will be processed pursuant to the interval delays applicable to the security. The Commission finds that this requirement will help ensure that Nasdaq is specifically made aware of the need to remove the interval delay on the first day of such an offering.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] *See* 2000 Notice, *supra* note 6.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NASD–01–03) and Amendment No. 1 thereto are approved on a six-month pilot basis, commencing with the launch of SuperSOES.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8470 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

[11] *See* Amendment No. 1, *supra* note 4.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44144; File No. SR–NASD–00–81]

RIN

Self Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Computer to Computer Interface Fees for Non-NASD Members

April 2, 2001.

I. Introduction

On December 26, 2000, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary. The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to computer to computer interface fees for

non-NASD members,[3] Notice of the proposed rule change appeared in the **Federal Register** on January 16, 2001.[4] The Commission received no comments on the proposed rule change. This order approved the proposed rule change.

II. Description of the Proposal

Nasdaq proposes to amend NASD Rule 7010 to change the manner in which fees are assessed on non-NASD members who use a Computer-to-Computer Interface (''CTCI'') to access Nasdaq services. This new fee structure has been created to reflect Nasdaq's adoption of a new Transmission Control Protocol/Internet Protocol (''TCP/IP'') standard for CTCI linkages that will allow transmission of CTCI data using Nasdaq's Enterprise Wide Network II (''EWNII''). Nasdaq intends to impose these fees on a rolling basis on non-members as they are converted to the new protocol and T1 or 56kb lines.[5]

Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

7000 CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a) through (e) No change.

(f) Nasdaq Workstation™ Service

(1) through (2) No Change.

(3) The following charges shall apply for each CTCI subscriber:

[Service Charge $200/month per CTCI circuit]

Options	*Price J*
Option 1:	
Dual 56kb lines (one for redundancy) and single hub and router	*$1,275/month.*
Option 2:	
Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy).	*$1,600/month.*
Option 3:	
Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb.	*$8,000/month.*
Disaster Recovery Option:	
Single 56kb line with single hub and router. (For remote disaster recovery sites only.)	*$975/month.*
Bandwidth Enhancement Fee (for T1 subscribers only)	*$4,000/month per 64kd increase above 128kb T1 base.*
Installation Fee	*$2,000 per site for dual hubs and router.* *$1,000 per site for single hub and router.*
Relocation Fee (for the movement of TCP/IP-capable lines within a single location)	*$1,700 per relocation.*

* * * * *

The CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's processing facilities in Trumbull, Connecticut. Through CTCI, firms are able to enter trade reports to Nasdaq's Automated Confirmation Transaction Service (''ACT'') and orders to Nasdaq's ACES and Small Order Execution (''SOES'') systems. CTCI also processes SelectNet transaction confirmation reports.

In response to numerous requests from market participants that Nasdaq upgrade the speed and reliability of its current CTCI data transmission environment, Nasdaq has determined to sunset its existing CTCI X.25.bisynch network. This X.25 system will be replaced by linking current CTCI subscribers to Nasdaq's faster and more reliable EWNII. EWNII operates new more powerful 56kb and T1 data lines and transmits electronic information using the industry-standard TCP/IP transmission protocol. Once the transition to EWNII is completed, Nasdaq will terminate its current X.25/bisynch network. This upgrade will require all current X.25/19.2kb users to install either 56kb or T1 lines. Nasdaq believes that, in return, these lines will provide a minimum data transmission capability of almost three times that of the current 19kb-based interface.

III. Discussion

The Commission finds the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.[6] Specifically, the Commission finds that approval of the proposed rule change is consistent with section 15A(b)(5) of the Act,[7] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The Commission notes that Nasdaq's upgrade of the speed and reliability of its current CTCI data transmission network should enable Nasdaq to provide CTCI subscribers with linkages that are more robust, customizable, and efficient in the use of available network bandwidth.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with section 15A(b)(5),[8] in particular.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change, SR–NASD–00–81, as amended, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8472 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

[3] On December 26, 2000, Nasdaq filed Amendment No. 1 with the Commission. Amendment No. 1 noted that Nasdaq's Board of Directors approved the proposed rule change at its meeting on October 4, 2000, and the NASD Board of Governors reviewed the proposal at its meeting on October 5, 2000.

[4] *See* Securities Exchange Act Release No. 43815 (January 8, 2001), 66 FR 3625 (January 16, 2001).

[5] Nasdaq filed a separate proposal to impose these same fees on NASD members who interact with Nasdaq through a CTCI. *See* Securities Exchange Act Release No. 43821 (January 8, 2001), 66 FR 3627 (January 16, 2001).

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[7] 15 U.S.C. 78*o*–3(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44135; File No. SR–NYSE–00–60]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 416, Questionnaires and Reports

March 30, 2001.

On December 21, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 416, Questionnaires and Reports. The proposed rule change was noticed in the **Federal Register** on February 2, 2001.[3] No comments were received on the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposal

NYSE Rule 415 authorizes the Exchange to require members and member organizations to submit prescribed information that the Exchange believes to be essential for the protection of investors and the public interest. The Rule has been used to require the periodic submittal of specific predefined financial, operational, and other information necessary for an effective evaluation of a member's or member organization's compliance with applicable rules and regulations. NYSE Rule 416 has also been used to prepare the membership for specific initiatives such as participation in Year 2000 testing and the conversion to decimalization.

To facilitate the participation of members and member organizations in an industry-wide regulatory initiative with respect to clearing firms, the Exchange has proposed an amendment to Rule 416 (Rule 416.20) that will give the Exchange broader authority to require members and member organizations to submit to the Exchange raw trading data, on their own behalf and on behalf of firms that introduce customer accounts to them pursuant to NYSE Rule 382 (Carrying Agreements). Pursuant to Rule 416.20 members may be required by the Exchange to submit such information on an ongoing basis (*e.g.*, daily, monthly, quarterly) and in such format as the Exchange may require.[4] The Exchange, in conjunction with the Commission, the National Association of Securities Dealers Regulation, Inc., Securities Industry Association (''SIA''), several member organizations, and other securities industry representatives, has developed a broker-dealer reporting system intended to help identify potential sales practice violations, particularly those associated with low-priced microcap issues. The data that the Exchange collects for this reporting system, pursuant to proposed Rule 416.20, will be submitted to a processing center that will organize it according to exception parameters established by the Exchange and other self-regulatory organizations. The required data will initially include, among other data, various raw statistical data pertaining to cancelled trades. It is intended that additional data will be required at future dates. Once the reporting system is fully operational, it is expected that the trade information collected pursuant to this initiative will serve as an early warning system to ''red flag'' unusual trading patterns.

II. Discussion

The Commission finds that the proposed rule change is consistent with the provisions of section 6(b)(5) of the Act,[5] which require, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with respect to facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[6] In particular, the Commission believes that Rule 416.20 will help to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it authorizes the Exchange to require clearing members to submit trading data to be analyzed for indications of sales practice violations in connection with low-priced microcap issues. Furthermore, because Rule 416 authorizes the Exchange to require its clearing members to submit this information on their own behalf and on behalf of their introducing firms, the Commission believes that the rule will broadly enable the Exchange to detect unusual trading patterns at an early stage and thereby better protect investors and the public interest from abusive sales practices.

III. Conclusion.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the act,[7] that the proposed rule change (SR–NYSE–00–60) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8471 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43886 (January 25, 2001), 65 FR 8829 (February 2, 2001) (SR–NYSE–00–60).

[4] The Exchange has represented that it anticipates requesting members and member organizations to submit raw data electronically.

[5] 15 U.S.C. 78f(b)(5).

[6] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44141; File No. SR–NYSE–00–32]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Shareholder Approval of Stock Option Plans

March 30, 2001.

I. Introduction

On July 13, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to extend the effectiveness of a pilot regarding the Exchange's shareholder approval policy with respect to stock option and similar plans. The proposed rule change was published for comment in the **Federal Register** on August 10, 2000.[3] On August 15, 2000, the Commission extended the comment period until

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (''2000 Proposal''). In addition, the NYSE submitted a monitoring report that presented data regarding the use of the ''broadly-based'' exemption by NYSE-listed companies. *See* letter to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), SEC, from Catherine R. Kinney, Group Executive Vice President, Office of Chief Executive, NYSE, dated September 28, 2000 (''Pilot Monitoring Report''). This report is part of the public file and may be inspected at the Commission's Public Reference Room as well as the principle office of the NYSE.

September 20, 2000.[4] The Commission received 25 comment letters on the proposal in response to both the regular and extended comment periods.[5] On March 7, 2001, the NYSE submitted its response to the comment letters.[6] On January 19, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change, which was published in the **Federal Register** on February 2, 2001.[7] No comments were received on Amendment No. 1. This order approves the proposal, as amended, on a pilot basis until September 30, 2001.

II. Background

On June 4, 2000, the Commission approved, on a pilot basis, an Exchange proposal to amend Sections 312.01, 312.03, and 312.04 of the Exchange's Listed Company Manual (''Manual'') with respect to the definition of a ''broadly-based'' stock option plan (''1999 Pilot'').[8] The 1999 Pilot was scheduled to expire on September 30, 2000. Therefore, the Exchange submitted the 2000 Proposal to extend the effectiveness of the 1999 Pilot. In addition, the NYSE submitted its Pilot Monitoring Report to provide the Commission with data regarding the use of the ''broadly-based'' exemption.[9] Originally, the Exchange sought a three-year extension of the 1999 Pilot. However, in Amendment No. 1, the Exchange shortened its extension request to one year and also modified the ''broadly-based'' definition to address a potential loop-hole. To provide time for consideration of the 2000 Proposal, the effectiveness of 1999 Pilot was extended through March 30, 2001.[10]

Paragraphs 312.01, 312.03, and 312.04 of the Manual set forth the Exchange's policy with respect to shareholder approval of stock option and similar plans (''Plans''). As a prerequisite to listing, shareholder approval of Plans or any other arrangement pursuant to which officers or directors acquire stock is required. There are, however, four exemptions from the shareholder approval requirement, one of which is an exemption for Plans that are ''broadly-based.'' Historically, the Exchange had not provided a definition of what constituted a ''broadly-based'' Plan other than to state that such a Plan must include employees other than officers and directors. The only express example of such a Plan in the Manual was an employee stock option plan, or ''ESOP.''

In December 1997, the Exchange filed a proposed rule change, which codified, among other things, existing Exchange interpretations regarding ''broadly-based'' Plans (''Original Proposal'').[11] Specifically, in the Original Proposal, the Exchange amended the Manual to state that the determination of whether a Plan was ''broadly-based'' required a review of a number of factors, including the number of persons included in the Plan, and the nature of the company's employees, such as whether there were separate compensation arrangements for salaried and hourly employees. The Original Proposal also codified a non-exclusive safe harbor for Plans in which at least 20 percent of a company's employees were eligible to participate in the Plan, provided that the majority of those eligible were neither officers nor directors. The Commission did not receive any comments on the Original Proposal, and subsequently approved it, on April 8, 1998.[12]

Following the Commission's approval of the Original Proposal, the Exchange and the Commission received a significant number of inquiries and comments regarding the Original Proposal. Many of these inquiries and comments originated from the institutional investor community and focused on the ''broadly-based'' definition. Commenters expressed general concern that, without shareholder approval, companies could dilute the value of existing shares by creating new Plans.

In response, the Exchange issued a request for comment regarding the definition of ''broadly-based'' Plans. According to the NYSE, the listed company community favored retaining the new Policy, while the institutional investor community favored a narrower definition of what constituted a ''broadly-based'' Plan, and suggested that such definition be an exclusive test instead of a non-exclusive safe harbor.

A Stockholder Approval Policy Task Force (''Task Force'') was subsequently established by the NYSE to review the comments and to make

[4] Securities Exchange Act Release No. 43155, 65 FR 51382 (August 23, 2000). As originally noticed, the comment period expired on August 31, 2000.

[5] *See* letters to Jonathan G. Katz, Secretary, SEC from Sarah A.B. Teslik, Executive Director, Council of Institutional Investors, dated August 17, 2000 (''CII''), Linda S. Selbach, Global Proxy Manager, Barclays Global Investors, dated August 21, 2000 (''Barclays Global Investors''); Jeffrey W. States, *et al.,* Sacramento County Employees' Retirement System, dated August 23, 2000 (''Sacramento County''); James P. Hoffa, General President, International Brotherhood of Teamsters, dated August 28, 2000 (''Teamsters''); Alan G. Hevesi, Comptroller, Comptroller of the City of New York, dated August 24, 2000 (''Comptroller of the City of New York''); Kay R.H. Evans, Executive Director, Maine State Retirement System, dated August 29, 2000 (''Maine State Retirement System''); Peter C. Clapman, Senior Vice President and Chief Counsel, Investments, Teachers Insurance and Annuity Association College Retirement Equities Fund, dated August 23, 2000 (''TIAA–CREF''); Tom Herndon, Executive Director, State Board of Administration of Florida, dated August 28, 2000 (''State Board of Florida''); Keith Johnson, Chief Legal Counsel, State of Wisconsin Investment Board, dated September 1, 2000 (''State of Wisconsin Investment Board''); Steven E. Kornrumpf, Director, State of New Jersey, Department of the Treasury, Division of Investment, dated August 31, 2000 (''State of New Jersey''); Peter M. Gilbert, Chief Investment Officer, Commonwealth of Pennsylvania, State Employees' Retirement System, dated September 7, 2000 (''PA State Employees' Retirement System''); Mark E. Brossman, Counsel to Longview Funds, Schulte, Roth & Zabel, dated September 12, 2000 (''Schulte, Roth & Zabel''); Nell Minnow, Editor, The Corporate Library, dated September 19, 2000 (''Corporate Library''); Denise L. Nappier, Treasurer, State of Connecticut, Office of the Treasurer, dated September 18, 2000 (''State of Connecticut''); Michael R. Zucker, Director, Office of Corporate Affairs, American Federation of State, County and Municipal Employees, AFL–CIO, dated September 19, 2000 (''AFSCME''); Joseph T. Hansen, International Secretary-Treasurer, United Food & Commercial Workers International Union, AFL–CIO & CLC, dated September 19, 2000 (''UFCW''); William Patterson, Director, Office of Investment, American Federation of Labor and Congress of Industrial Organizations, dated September 20, 2000 (''AFL–CIO''); Gary K. Duberstein, Managing Director, Greenway Partners, L.P., dated September 20, 2000 (''Greenway Partners''); H.W. Ward, Chief Executive Officer, Hotel Employees and Restaurant Employees International Union, Welfare-Pension Funds, dated September 19, 2000 (''Hotel Employees and Restaurant Employees International Union''); John F. Olsen, Gibson, Dunn & Crutcher LLP, dated October 9, 2000 (''Gibson, Dunn & Crutcher''); James P. Ryan, Senior Counsel, Fund Business Management Group, Capital Research and Management Company, dated November 13, 2000 (''Capital Research and Management Company''); Eugene P. Stein, Executive Vice President, Capital Guardian Trust Company, dated November 22, 2000 (''Capital Guardian Trust Company''); Sheila W. Beckett, Executive Director, Employees Retirement System of Texas, dated December 11, 2000 (''Employees Retirement System of Texas''); Deb Lingle, e-mail received on September 25, 2000; and John Johnson, e-mail received on September 25, 2000.

[6] *See* letter to Jonathan G. Katz, Secretary, SEC, from James E. Buck, Senior Vice President and Secretary, dated March 5, 2001 (''NYSE Letter'').

[7] Securities Exchange Act Release No. 43879 (January 24, 2001), 66 FR 8827 (''Amendment No. 1'').

[8] Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999).

[9] *See* note 3 *supra.* In the Pilot Monitoring Report, the NYSE stated that of the 319 listing applications with respect to stock option or purchase plans submitted to the Exchange from June 4, 1999 through May 2000, 209 were submitted to shareholders for a vote and 60 Plans relied on the ''broadly-based'' exemption approved in the 1999 Pilot.

[10] Securities Exchange Act Release Nos. 44018 (February 28, 2001), 66 FR 13821 (March 7, 2001); 43647 (November 30, 2000, 65 FR 77404 (December 11, 2000) (Notice of Filing to extend the effectiveness of the 1999 Pilot through February 28, 2001); 43329 (September 22, 2000), 65 FR 58833 (October 2, 2000) (Notice of Filing to extend the effectiveness of the 1999 Pilot through November 30, 2000).

[11] Securities Exchange Act Release No. 39659 (February 12, 1998), 63 FR 9036 (February 23, 1998).

[12] Securities Exchange Act Release No. 39839, 63 FR 18481 (April 15, 1998).

recommendations concerning possible changes to the NYSE's Policy. The Task Force was composed of representatives of the Exchange's legal Advisory Committee, Individual Investors Committee, Pension Managers Advisory Committee, and Listed Company Advisory Committee. In addition, members of other Exchange constituencies, including the Council of Institutional Investors, were represented on the Task Force.

Following its deliberations, the Task Force recommended that certain changes be made to the definition of a ''broadly-based'' Plan.[13] In addition, the Task Force recommended that the Exchange actively consider setting an overall dilution maximum for all non-tax qualified Plans that otherwise would be exempt from shareholder approval requirements.

The Exchange responded by submitting the 1999 Pilot, which amended Sections 312.01, 312.03, and 312.04 of the Manual to reflect the recommendations to the Task Force. The Exchange also directed the Task Force to continue its work to consider the dilution issue with a target date of NYSE's September 1999 meeting of the Board of Directors.

The Task Force submitted its finding to the Exchange's Board at the November 1999 meeting.[14] The Task Force recommended implementing enhanced disclosure requirements for the compensation tables contained in a company's SEC filings.[15] Although the Task Force formulated dilution standards and presented them in its report, the Task Force believed, and the Exchange's Board agreed, that such standards should be adopted uniformly by all the major listing markets in the United States. The Task Force was concerned that adoption of the dilution standard by only one market would lead to competition for listings based on disparities in the corporate governance rules of the respective markets. The Task Force believed that this would compromise the purposes intended to be served by those rules, and could undermine the public's confidence and trust in the markets.

Accordingly, the Exchange began discussions with the management of the National Association of Securities Dealers, Inc. regarding a dilution standard. On December 5, 2000, the Nasdaq Stock Market, Inc. (''Nasdaq'') solicited comment from its members and investors on the NYSE Task Force's dilution standard. The comment period for the Nasdaq request for comment expired on February 5, 2001.

III. Description of the Proposal

As approved in the 1999 Pilot, a Plan is currently considered ''broadly-based,'' and thus exempt from the Exchange's shareholder approval requirements, if, pursuant to the terms of the Plan (a) at least a majority of the issuer's full time, exempt U.S. employees are eligible to participate under the Plan; and (b) at least a majority of the shares awarded under the Plan, or shares of stock underlying options awarded under the Plan, during the shorter of the three-year period commencing on the date the Plan is adopted by the issuer or the term of the Plan itself are made to employees who are not officers or directors of the issuer.

In the 2000 Proposal, as amended, the Exchange requested that the Commission extend the 1999 Pilot through September 30, 2001 in order to permit additional industry discussions of the issues, while at the same time enabling the Exchange to continue to study the experience of NYSE-listed companies and their investors that utilize the exemption from shareholder approval for ''broadly-based'' Plans.[16]

In addition, the Exchange proposed to amend the second part of the ''broadly-based'' definition, which focuses on actual grants made under a Plan.[17] Specifically, the Exchange proposed to amend this provision by requiring that at least a majority of shares of stock or shares of stock underlying options awarded under a Plan during *any* three-year period must be awarded to employees who are not officers or directors of the company. According to the NYSE, the three-year period refers to periods of consecutive years and is a continuing requirement that should be applied on a rolling three-year basis by Plans with terms longer than three years. In the event that a Plan is implemented with a stated term shorter than three years, awards, under the revision, would have to be made in a way that would meet the rule criteria during such shorter period.

IV. Summary of Comments

The Commission received 25 comment letters on the proposed rule change.[18] Of the 25 comment letters, 20 comment letters opposed the Exchange's proposal to extend the effectiveness of the pilot for three years,[19] and two commenters while opposing the three-year extension request, supported a one-year extension of the 1999 Pilot.[20] One commenter was from a member of the Task Force and responded to issues raised by various commenters.[21] Two commenters did not address the issues raised in the proposed rule change.[22]

The Exchange submitted a written response to the issues raised in the comment letters.[23] The following discussion summarizes the issues raised by the commenters and the Exchange's response.

A. Three-Year Extension Request

A majority of commenters opposed the original three-year extension requested by the NYSE and argued that the NYSE should adopt a dilution standard immediately or by the 2001 proxy season.[24] For example, several commenters noted that the 1999 Pilot

[13] *See Report of the Special Task Force on Stockholder Approval Policy* dated August 28, 1998.

[14] *See Report of the New York Stock Exchange Special Task Force on Stockholder Approval Policy.* The Task Force had previously submitted a status report to the Commission in October 1999. *See* letter to Annette Nazareth, Director, Division, SEC, from Catherine Kinney, Group Executive Vice President, Office of Chief Executive, NYSE, dated October 28, 1999 (Status Report Submission NYSE–98–32). The Task Force Report and the Status Report are part of the public file and may be inspected at the Commission's Public Reference Room as well as at the principle office of the NYSE.

[15] In January 2001, the Commission approved for publication and public comment a proposed rule that would enhance disclosure of equity compensation plans. *See* Securities Act Release No. 7944 (January 26, 2001), 66 FR 8732 (February 1, 2001). A copy of the Commission's proposal also can be found on the Commission's website at *www.sec.gov.* The comment period for this proposal ends on April 2, 2001.

[16] *See* Amendment No. 1, note 7 *supra.* As discussed above, the Exchange originally requested an extension until September 30, 2003.

[17] *See* Amendment No. 1, note 7 *supra.*

[18] *See* note 5 *supra.*

[19] *See* letters from CII; Barclays Global Investors; Sacramento County; Teamsters; Comptroller of the City of New York; Maine State Retirement System; State Board of Florida; State of Wisconsin Investment Board; State of New Jersey; PA State Employees' Retirement System; Schulte, Roth & Zabel; Corporate Library; State of Connecticut; UFCW; AFL-CIO; Greenway Partners; Hotel Employees and Restaurant Employees International Union; Capital Research and Management Company; Capital Guardian Trust Company; and Employees Retirement System of Texas.

[20] *See* letters from TIAA-CREF and AFSCME.

[21] *See* letter from Gibson, Dunn & Crutcher. The Commission notes that the following commenters were also members of the NYSE Task Force: Barclays Global Investors; TIAA–CREF; State Board of Florida; and State of Wisconsin Investment Board.

[22] *See* e-mails from Deb Lingle and John Johnson.

[23] *See* NYSE Letter, note 6 *supra.*

[24] *See* letters from CII; Barclays Global Investors; Sacramento County; Teamsters; Comptroller of the City of New York; Maine State Retirement System; TIAA–CREF; State Board of Florida; State of Wisconsin Investment Board; State of New Jersey; PA State Employees' Retirement System; Schulte, Roth & Zabel; Corporate Library; State of Conneticut; AFSCME; UFCW; AFL–CIO; Greenway Partners; Hotel Employees and Restaurant Employees International Union; Capital Research and Management Company; Capital Guardian Trust Company; and Employees Retirement System of Texas.

was approved on a pilot basis with the understanding that a new standard be in place for the 2000 proxy season.[25]

As described above, the Exchange modified its extension request in Amendment No. 1 so that the 2000 Proposal now proposes an extension until September 30, 2001.

B. Dilution

A majority of commenters argued that the NYSE should adopt the dilution standard developed by its Task Force.[26] Generally, dilution refers to the diminished value of a shareholder's investment that can occur when stock options are granted. As noted above, the Task Force developed a dilution standard to measure the effects of Plans on shareholders' interests but recommended that the NYSE delay adopting the dilution standard until the other major listing markets followed suit. Several commenters believed that a dilution standard should be added to the current rule along with the ''broadly-based'' standard.[27] One commenter noted that the extension request would ''increase the risk of excessive dilution of [its] investments in NYSE listed companies that establish ''broad-based'' stock option plans.'' [28] Another commenter argued that delaying implementation of a dilution standard is unacceptable given the cost of Plans to shareholders.[29] Finally, one commenter argued that the NYSE should adopt both of its Task Force's recommendations on dilution and shareholder approval of all Plans that permit officer and director participation.[30]

In response, the Exchange stated that it continues to believe that a change as significant as a move to a dilution-based standard cannot be made by only one of several competing listing markets. According to the Exchange, a uniform approach that is supported by as broad a consensus as possible is necessary. The Exchange noted several developments including the Commission's proposal to enhance disclosure, which NYSE's Task Force found to be an important adjunct to a dilution-based standard, as well as Nasdaq's solicitation of comments on this issue. The Exchange committed to continue working with its constituents, the Commission, and other markets to achieve a consensus that adequately addresses the needs of all involved.

C. Enhanced Disclosure

Several commenters argued that enhanced disclosure of Plans was needed.[31] These commenters urged the Commission to adopt new Plan disclosure rules. The Commission notes that in January 2001, it approved for publication and public comment a proposal to enhance disclosure of equity compensation plans.[32]

D. Uniform Standards

Several commenters disagreed with NYSE's argument that a dilution standard should be implemented on a uniform basis with other listing markets.[33] One commenter argued that it believed that ''there is no need to wait for other exchanges to join-in'' because ''the market place will surely have them follow.'' [34] Another commenter questioned the Exchange's commitment to adopting a dilution-based standard.[35] They along with another commenter argued that adoption of a dilution-based standard should not hinge on approval of a similar rule by the Nasdaq/Amex market.[36] Finally, one commenter noted that because many Nasdaq companies rely heavily on Plans to compensate and retain highly skilled employees, it is unlikely that Nasdaq would propose a standard to require shareholder approval of Plans and thus, NYSE's pre-condition for moving forward with a dilution-based standard was unreasonable.[37]

As noted above, the NYSE continues to believe that a shareholder approval standard based on dilution is a significant change and cannot be made by one of several competing listing markets. NYSE argues that a uniform approach should be adopted.

E. Other Issues

Many commenters raised other issues related generally to the ''broadly-based'' definition that were raised and considered in the 1999 Pilot.[38] For example, several commenters argued that the ''broadly-based'' exemption denies shareholders of the right to oversee and consider potentially dilutive Plans.[39] In this regard, a few commenters noted that they acted as fiduciaries for clients and had obligations to protect their clients' interests, which they believed the NYSE rule usurped.[40]

Two commenters argued that the definition should be amended to delete the reference to ''exempt'' employees.[41] Two other commenters stated shareholders should have the authority to approve all stock option plans.[42] Finally, one commenter reiterated the concern about conflicts of interest of officers and directors that implement Plans in which they participate noting that lower level employees could be excluded from participating in such Plans.[43]

V. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[44] In particular, the Commission believes that the proposal is consistent with the requirements of

[25] *See e.g.,* letters from Teamsters and State of Wisconsin Investment Board. *See also* letter from TIAA–CREF, which stated that the 1999 Pilot was understood as a stop-gap measure until permanent resolution could be reached.

[26] *See* letters from CII; Barclays Global Investors; Sacramento County; Teamsters; Comptroller of the City of New York; Maine State Retirement System; TIAA–CREF; State Board of Florida; State of Wisconsin Investment Board; State of New Jersey; PA State Employees' Retirement System; Schulte, Roth & Zabel; State of Connecticut; AFSCME; UFCW; AFL–CIO; Greenway Partners; Hotel Employees and Restaurant Employees International Union; Capital Research and Management Company; Capital Guardian Trust Company; and Employees Retirement System of Texas.

[27] *See* letters from Capital Research and Management Company, which supported the ''broadly-based'' definition but believed that a dilution standard was also necessary; and Capital Guardian Trust Company.

[28] *See* letter from Comptroller of the City of New York.

[29] *See* letter from AFSCME.

[30] *See* letter from Hotel Employees and Restaurant Employees International Union.

[31] *See* letters from CII; Barclays Global Investors; Sacramento County; Teamsters; Maine State Retirement system; TIAA–CREF; State of Wisconsin Investment Board; Schulte, Roth & Zabel; AFSCME; Hotel Employees and Restaurant Employees International Union; Deb Lingle; John Johnson; and Employees Retirement System of Texas.

[32] *See* note 15 *supra.*

[33] *See* letters from Comptroller of the City of New York; State Board of Florida; PA State Employees' Retirement System; Schulte Roth & Zabel; AFSCME; Greenway Partners; and Hotel Employees and Restaurant Employees International Union.

[34] *See* letter from Hotel Employees and Restaurant Employees International Union.

[35] *See* letter from Schulte, Roth & Zabel, which stated ''we believe that the NYSE could have resolved this issue with Nasdaq/Amex by now, and grow increasingly concerned about NYSE's commitment to adopting a dilution-based standard.''

[36] *Id. See also* letter from State Board of Florida.

[37] *See* letter from Comptroller of the City of New York.

[38] *See* order approving the 1999 Pilot, note 8 *supra*

[39] *See* letter from Teamsters; Comptroller of the City of New York; State of Wisconsin Investment Board; PA State Employees' Retirement System; UFCW; Hotel Employees and Restaurant Employees International Union; and Capital Guardian Trust Company.

[40] *See* letters from Barclays Global Investments; Comptroller of the City of New York; PA State Employees' Retirement System; and Capital Guardian Trust Company.

[41] *See* letters from Teamsters and AFL–CIO.

[42] *See* letters from State of New Jersey and UFCA.

[43] *See* letter from PA State Employees' Retirement System.

[44] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between issuers.[45]

The Commission has carefully considered the issues raised by this proposed rule change and continues to believe that it is consistent with the requirements of the Act.[46] In approving this proposal, the Commission recognizes that a majority of the commenters continue to believe that a dilution standard would be more appropriate. Nevertheless, the Commission believes that the current 2000 Proposal, which addresses concerns that the 1999 Pilot permitted grants made under ''broadly-based'' Plans to be made in a non-broadly-based fashion, is still a better test that the previous non-exclusive safe harbor approved in the Original Proposal.[47]

The Commission approved the 1999 Pilot basis to provide the NYSE with time to develop a dilution test. The NYSE Task Force did develop such a test but recommended that the NYSE Board of Directors refrain from proposing and implementing its dilution standard until such time as the other listing markets, specifically Nasdaq, would adopt similar requirements. At this time, Nasdaq has not adopted the NYSE dilution standard and has not developed its own dilution standard. However, as noted above, Nasdaq has taken substantial steps in considering the NYSE dilution proposal by issuing a request for comment from its issuers and investors. Nasdaq received approximately 275 comment letters on the NYSE dilution proposal. The Commission expects to receive the Nasdaq analysis on these letters in the near future. In addition, in its response to the comment letters, the NYSE stated that it intends to coordinate with Nasdaq in developing a consensus on the issue.[48] In addition, the NYSE has substantially shortened the duration of the extension request from three years to one year. Thus, the Commission believes that extending the pilot through September 30, 2001 is appropriate at this time to enable the markets to continue to work on developing a potential uniform standard.

In the order approving the 1999 Pilot, the Commission noted that its standard for reviewing the NYSE's proposal is whether its consistent with the Act. The Commission must apply this same standard to the current 2000 Proposal. While the Commission still strongly urges the markets to address the issues in this area and review adoption of a dilution standard, we nonetheless continue to believe that the 2000 Proposal is consistent with the Act because it represents a reasonable effort by the Exchange to clarify which Plans are ''broadly-based'' and therefore exempt from shareholder approval. Accordingly, the adoption of the proposed rule change on a pilot basis should protect investors in accordance with Section 6(b)(5) of the Act[49] by helping ensure that only ''broadly based'' Plans will be exempted from shareholder approval.

Further, as noted above, the NYSE has modified its definition of ''broadly-based'' to require that awards granted to Plan participants must be considered on a rolling three year period to determine if in fact the awards are granted in a ''broadly-based'' fashion, *i.e.,* a majority of shares must be awarded to non-officer and director Plan participants. The Commission notes that, in approving the 1999 Pilot, it received numerous comments about a loop-hole in the definition of ''broadly-based'' Plans because the definition only required actual grants to be awarded to non-officers and directors during the first three years of the Plan. The Commission believes that the modification of the rolling three-year period shall strengthen the definition and should help to ensure that Plans that are established by NYSE-listed companies are actually implemented in ''broadly-based'' fashion. Accordingly, the new rolling three-year definition should address the previous concerns by preventing NYSE-listed companies from establishing Plans and only implementing them in a ''broadly-based'' fashion during the first three years of the Plan. This modification should further protect the interests of investors by ensuring that only truly ''broadly-based'' Plan are exempt from shareholder approval requirements consistent with Section 6(b)(5) of the Act.[50]

The Commission has decided to approve the proposed rule change on a pilot basis to permit the markets to continue their consideration of a dilution standard. The Commission notes that the majority of commenters that opposed the 2000 Proposal were opposed to the three-year extension. In addition, two members of the Task Force, while questioning the length of time requested, believed that some extension of the pilot was justified.[51] In response, the NYSE shortened its extension request to one year. In the NYSE Letter, the Exchange reiterated its commitment to continue working with its constituents, the Commission, and other markets to achieve a consensus solution that adequately addresses the needs of all involved. Further, Nasdaq recently displayed its willingness to consider the issues regarding shareholder approval standards for Plans. Therefore, the Commission believes that it is appropriate to approve the NYSE proposal on a pilot basis until September 30, 2001 to enable the markets to continue working on a solution that balances the needs of investors with the needs of listed companies.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[52] that the amended proposed rule change (SR–NYSE–00–32) is approved on a pilot basis until September 30, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[53]

Margaret H. McFarland,

Deputy Secretary.

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[45] 15 U.S.C. 78f(b)(5).

[46] *See also* order approving the 1999 Pilot, note 8 *supra.* In addition, the Commission has reviewed the Pilot Monitoring Report. The Commission expects the NYSE to continue to monitor its listed companies' use of the ''broadly-based'' exemption and to submit a similar report prior to any future submission regarding this matter.

[47] The Commission notes that if it found that the current ''broadly-based'' definition was not consistent with the requirements of the Act, the Original Proposal approved by the Commission in 1998 would become effective. *See* notes 11 and 12 *supra.*

[48] *See* note 6 *supra.*

[49] 15 U.S.C. 78f(b)(5).

[50] 15 U.S.C. 78f(b)(5).

[51] *See* letters from TIAA–CREF, which stated ''we believe that the issues are capable of a comprehensive resolution within one year based on the recommended standards already conditionally approved by the NYSE * * *''; and Gibson, Dunn & Crutcher, which stated ''[w]hile the duration of the extension can legitimately be the subject of discussion, the justification for an extension cannot be seriously questioned.''

[52] 15 U.S.C. 78s(b)(2).

[53] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Docket No. 34–44139; File No. SR–NYSE–94–34]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 6 to the Proposed Rule Change by the New York Stock Exchange, Inc. Amending Rule 92 To Permit Limited Trading Along With Customers

March 30, 2001.

I. Introduction

On September 27, 1994, the New York Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 92 to permit limited trading along with customers. On December 20, 1994, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended by Amendment No. 1, was published in the **Federal Register** on January 3, 1995 (''Original Proposal'').[4] On February 1, 1995, in response to requests from several self-regulatory organizations (''SROs''),[5] the Commission published a notice of filing to extend the comment period for the Original Proposal.[6] The Commission received ten comment letters on the Original Proposal.[7]

On July 13, 1995, the NYSE submitted Amendment No. 2 to the proposed rule change, which was published in the **Federal Register** on July 28, 1995.[8] The Commission received five comment letters on Amendment No. 2 to the proposed rule change.[9]

On June 28, 1996, the NYSE submitted Amendment No. 3 to the proposed rule change, which was published in the **Federal Register** on July 18, 1996.[10] The Commission received three comment letters on Amendment No. 3 to the proposed rule change.[11]

On December 15, 1997, the NYSE submitted Amendment No. 4 to the proposed rule change, which was published in the **Federal Register** on February 18, 1998.[12] The Commission received six comment letters on Amendment No. 4 to the proposed rule change.[13]

On October 28, 1999, the NYSE submitted Amendment No. 5 to the proposed rule change, which was published in the **Federal Register** on December 20, 1999.[14] The Commission received three comment letters on Amendment No. 5 to the proposed rule change.[15] Given the public's interest in the proposed rule change and the Commission's desire to give the public sufficient time to consider Amendment No. 5 to the proposal, the Commission extended the comment period to Amendment No. 5 for an additional 14 days.[16]

On March 13, 2001, the NYSE submitted Amendment No. 6 to the proposed rule change.[17] This order approves the proposed rule change, as amended. The Commission also seeks comment from interested persons on Amendment No. 6.

II. Background

Currently, NYSE Rule 92 prohibits members from personally buying or selling (or initiating the purchase or sale) of any security on the Exchange at the same or better price at which they hold executable customer orders. The rule does not contain any exceptions for any type of proprietary transactions. In addition, the current rule does not apply to member organizations or transactions by members or member organizations in market centers other than the Exchange.

According to the Exchange, Rule 92 reflects fundamental concepts of agency law—that an agent must place its customer's interest ahead of its own proprietary interest. While this concept remains true today, the Exchange believes that trading practices have evolved in a manner that requires that the rule be amended. Specifically, the rule was drafted and promulgated before the advent of block positioning[18] and the proliferation of upstairs proprietary trading by member organizations. Thus, the Exchange decided to evaluate the rule's application, which currently only applies to trading practices engaged in by floor members, in light of member organizations' new off-floor trading practices. According to the Exchange, in amending Rule 92 to address these off-floor trading practices, it sought to strike

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See:* letter to Glen Barrentine, Team Leader, Division Vice President and Secretary, NYSE dated December 16, 1994 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 35139 (December 22, 1994), 60 FR 156.

[5] *See* letters to Katherine A. Simmons, Division, SEC, from Robert P. Ackerman, The Cincinnati Stock Exchange (''CSE''), dated January 23, 1995; and David P. Semak, Vice President Regulation, Pacific Stock Exchange, Inc. (''PCX''), dated January 23, 1995.

[6] Securities Exchange Act Release No. 35274 (January 25, 1995), 60 FR 6330. Pursuant to Section 19(b)(2) of the Act, the NYSE consented to the additional twenty-one day public comment period. *See* letter to Katherine Simmons, Division, SEC, from Donald Siemer, Director, Market Surveillance, NYSE, dated January 24, 1995.

[7] *See* letters to Jonathan G. Katz, Secretary, SEC, from Roger D. Blanc, Wilkie, Farr & Gallagher, dated February 21, 1995 (''Blanc Letter No. 1'') and March 30, 1995; Joan Conley, Corporate Secretary, National Association of Securities Dealers, Inc. (''NASD''), dated March 6, 1995; Peter A. Ianello, *et al,* SBC Capital Markets Inc., dated March 13, 1995; J. Craig Long, Foley & Lardner, dated May 3, 1995; and letters to Margaret H. McFarland, Deputy Secretary, SEC from William W. Uchimoto, General Counsel, Philadelphia Stock Exchange (''Phlx''), dated February 15, 1995 (''Phlx Letter No. 1'') and April 4, 1995; Frederick Moss, Chairman of the Board of Trustees, CSE, dated February 16, 1995; David P. Semak, Vice President Regulation, PCX, dated February 17, 1995 (''PCX Letter No. 1''); and George W. Mann, Senior Vice President and General Counsel, Boston Stock Exchange, Inc. (''BSE''), dated February 27, 1995.

[8] Securities Exchange Act Release No. 36015 (July 21, 1995), 60 FR 38875.

[9] *See* letter to Jonathan G. Katz, Secretary, SEC, from David P. Semak, Vice President Regulation, PCX, dated September 8, 1995; letters to Margaret H. McFarland, Deputy Secretary, SEC, from William W. Uchimoto, First Vice President and General Counsel, Phlx, dated August 11, 1995 and October 27, 1995; and David Colker, Executive Vice President and Chief Operating Officer, CSE, dated February 15, 1996; and letter to Brandon Becker, Director, Division, SEC, from Roger D. Blanc, Wilkie, Farr & Gallagher, dated November 22, 1995.

[10] Securities Exchange Act Release No. 37428 (July 11, 1996), 61 FR 37523.

[11] *See* letter to Jonathan G. Katz, Secretary, SEC, from Roger D. Blanc, Wilkie, Farr & Gallagher, dated August 2, 1996; and letters to Margaret H. McFarland, Deputy Secretary, SEC, from Michele R. Weisbaum, Vice President and Associate General Counsel, Phlx, dated August 8, 1996; and Adam W. Gurwitz, Director of Legal Affairs, CSE, dated August 13, 1996.

[12] Securities Exchange Act Release No. 39634 (February 9, 1998), 63 FR 8244.

[13] *See* letters to Jonathan G. Katz, Secretary, SEC, from Roger D. Blanc, Wilkie, Farr & Gallagher, dated March 10, 1998; Robert C. Errico, President, Securities Industry Association, dated March 24, 1998; Karen A. Aluise, Vice President, BSE, dated March 12, 1998; Paul A. Merolla, Vice President–Associate General Counsel, Goldman Sachs, dated March 18, 1998; letter to Margaret H. McFarland, Deputy Secretary, SEC, from Adam W. Gurwitz, Vice President Legal and Corporate Secretary, CSE, dated March 11, 1998; and letter to Howard L. Kramer, Assistant Director, Division, SEC, from Julius R. Leiman-Carbia, Goldman Sachs, dated May 21, 1998.

[14] Securities Exchange Act Release No. 42224 (December 13, 1999), 64 FR 3515.

[15] *See* letters to Jonathan G. Katz, Secretary, SEC, from Gerald D. Putnam, Chief Executive Officer, Archipelago, L.L.C., dated January 10, 2000 (''Archipelago Letter''); Sam Scott Miller, Orrick, Herrington & Sutcliffe, LLP, dated January 25, 2000 (''Orrick Herrington Letter''); Richard T. Sharp, Solomon, Zauderer, Ellenhorn, Frischer & Sharp, dated March 10, 2000 (''Solomon Zauderer Letter'').

[16] Securities Exchange Act Release No. 42330 (January 11, 2000), 65 FR 3515 (January 21, 2000).

[17] *See* letter to Belinda Blaine, Associate Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated March 9, 2001 (''Amendment No. 6'').

[18] Block positioning is an activity engaged in by certain broker-dealers whereby a broker-dealer acts as principal in taking all or part of a block order placed with the broker-dealer by a customer to facilitate a transaction that might otherwise be difficult to effect in the ordinary course of floor trading.

an appropriate balance between permitting block facilitations and preserving customer protections.

Accordingly, the Original Proposal [19] sought to extend the restrictions of the rule by treating proprietary transactions entered by member organizations in the same manner as proprietary trades of individual members on the floor of the Exchange. However, to accommodate the block facilitation business, the Exchange proposed to permit members and member organizations to trade along with customers when liquidating block facilitation positions, subject to certain conditions.

In the Original Proposal, the Exchange also sought to extend the trading restrictions imposed by Rule 92 to trades effected by NYSE members that occurred on ''any other market center.'' The Exchange believed that the broad concepts of agency law and fiduciary duties owned by agents to their customers applied to all agency relationships irrespective of the market center. Thus, it believed that its members should be subject to the rule's restrictions regardless of whether their transactions occurred on the NYSE.

Finally, the Exchange clarified the rule by proposing that members or employees of members or member organizations engaged in proprietary trading for the member or member organization would be imputed with knowledge of customer orders unless the member organization had created a functional separation between its proprietary trading desks and its other trading desks.

In Amendment No. 2,[20] the Exchange revised the Original Proposal to reflect some of the issues raised in the comment letters.[21] Several commenters raised concerns about extending the rule to cover member organizations and to transactions occurring on other market centers. The Exchange reiterated its belief that the rule should be extended to apply to member organizations. According to the Exchange, while most trading along situations occur when the same floor broker represents both agency and proprietary orders, it would be unacceptable for a member to enter a proprietary order with a different broker, who could then compete directly with the member firms's broker representing the member firm's customer.

The Exchange, however, proposed to amend the ''other market center'' provision of the Original Proposal by excluding transactions in securities not listed on the NYSE, transactions by a member organization acting in the capacity of a market maker in a security covered by Rule 19c–3 [22] under the Act, and transactions by a member organization acting in the capacity of a specialist or market maker on a regional exchange, to the extent that the principal trade effected was immediately liquidated at the same price as the customer received on that exchange. The NYSE, however, reasserted its belief that the rule should apply to all agency transactions by its members irrespective of the market center on which a transaction may be executed.

Finally, to accommodate off-floor proprietary trading, the Exchange proposed an additional exception to the rule to permit members or member organizations to trade along with customers when engaging in *bona fide* arbitrage or risk arbitrage, provided that certain conditions were met.

In Amendment No. 3,[23] the Exchange further clarified the scope of the proposed rule change. Specifically, the Exchange amended the provision that excluded regional exchange specialists and market makers from the provisions of the rule when they were acting in the capacity of a specialist or market maker on a regional exchange by deleting the requirement proposed in Amendment No. 2 that a regional specialist or market maker immediately liquidate its principal trade at the same price to its customer.

The Exchange also sought to clarify its reason for expanding its enforcement of Rule 92 to other market centers. Specifically, NYSE stated that because Rule 92 was an inventor protection and market integrity rule, its amendments sought to expand the narrow focus on floor activities to encompass member organizations' transaction in NYSE-listed securities irrespective of the market center in which these transactions occurred. The NYSE, nevertheless, amended the proposal to provide that, if another SRO had prohibitions similar to Rule 92, the prohibited activity resulted in transactions effected solely on that other SRO's market, and that SRO was a member of the Intermarket Surveillance Group (''ISG''), the ISG's investigative procedures would apply.

In Amendment No. 4,[24] the Exchange proposed to permit members and member organizations to hedge facilitation positions, provided that the hedging activity met certain conditions.

In addition, the Exchange proposed to included a provision as Supplemental Material .20 concerning the application of the proposed ''any other market center'' language. Specifically, the Exchange proposed to defer the review of transactions, both proprietary and agency, that were executed on another market center, to that other market center's regulatory staff, if the other market center had a trading along prohibition that was ''substantially similar'' [25] to the NYSE's Rule 92. If the other market center did not have a ''substantially similar'' rule, the NYSE rules would govern the review and analysis and the NYSE would pursue the matter. Further, the NYSE proposed that all investigations be coordinated through the ISG procedures.

In Amendment No. 5,[26] the Exchange revised the ''other market center'' provisions by limiting the application of Rule 92 to only those situations in which one or both trades (proprietary or agency) of a customer facilitation transaction were effected on the NYSE. Thus, if neither transaction occurred on the NYSE, Rule 92 would not apply.

In addition, the Exchange proposed a definition for *bona fide* hedge. Specifically, the Exchange proposed to define the creation of a *bona fide* hedge as those transactions that occur so close in time to the completion of the transaction precipitating such hedge that the hedge transactions are ''clearly related.'' Further, the Exchange defined what it considered to be ''clearly related'' for purposes of the hedge exception in proposed Supplemental Material .50.

Finally, the Exchange proposed to permit members and member organizations to trade along with customers when effecting transactions to correct *bona fide* errors.

III. Description of the Proposal [27]

As described above, NYSE Rule 92 currently restricts the ability of a NYSE

[19] *See* note 4 *supra.*

[20] *See* note 8 *supra.*

[21] *See* note 7 *supra.* In addition to submitting Amendment No. 2 to the Commission, the Exchange submitted a letter responding to the issues raises in Blanc Letter No. 1, Phlx Letter No. 1 and PCX Letter No. 1. *See* letter to Brandon Becker, Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE dated March 15, 1995.

[22] 17 CFR 240.19c–3.

[23] *See* note 10 *supra.*

[24] *See* note 12 *supra.*

[25] NYSE proposed that it would consider a rule to be ''substantially similar'' if the difference in the application of the rule was minor and technical and not materially different.

[26] *See* note 14 *supra.*

[27] The Commission notes that the description of the proposal, and thus the proposal approved in this order, reflects the proposed rule language submitted by the NYSE in Amendment No. 6 *See* note 17 *supra.*

member [28] to trade for its own account when the member has knowledge of any unexecuted customer order for the same security that could be executed at the same price. The NYSE has proposed to amend Rule 92 to broaden its applicability to include member organization,[29] and to permit members and member organizations to trade along with some of their customers in limited circumstances, as discussed further below.

As proposed NYSE Rule 92(a) would maintain the restriction regarding NYSE members' ability to enter orders to buy or sell any Exchange-listed security for any account in which such member or member organization or any approved person thereof is directly or indirectly interested, if the person responsible for the entry of the order has knowledge [30] of any particular unexecuted customer order to buy or sell the same security that could be executed at the same price. However, Rule 92, as proposed, will now also place the same trading restrictions on member organizations.

As proposed in NYSE Rule 92(b), members and member organizations will be permitted to enter proprietary orders while representing a customer's order that could be executed at the same price, under limited circumstances, so long as the order is not for the account of an individual investor [31] and the customer has given express permission, which must include an understanding of the relative price and size of allocated execution reports. Consent from the customer will be required for each transaction with which the member or member organization wishes to trade along.[32] Subject to this consent, members and member organizations will be permitted to enter only four types of proprietary orders when representing non-individual investor orders: First, pursuant to proposed NYSE Rule 92(b)(1), members and member organizations will be permitted to liquidate a position in a proprietary facilitation account [33] if their customer's order is for at least 10,000 shares.[34] Second, pursuant to proposed NYSE Rule 92(b)(2), members and member organizations will be permitted to create a *bona fide* hedge [35] so long as (i) the creation of the hedge, whether through one or more transactions, occurs so close in time to the completion of the transaction precipitating such hedge that the hedge is clearly related; [36] (ii) the size of the hedge is commensurate with the risk of offsets; [37] (iii) the risk to be offset is the result of a position acquired in the course of facilitating a customer's order; and (iv) the customer's order is for 10,000 shares or more. Third, pursuant to proposed NYSE Rule 92(b)(3), members and member organizations will be permitted to modify an existing hedge if (i) the size of the hedge, as modified, remains commensurate with the risk it offsets; (ii) the hedge was created to offset a position acquired in the course of facilitating a customer's order; and (iii) the customer's order is for 10,000 shares or more. Finally, pursuant to proposed NYSE Rule 92(b)(4), members and member organizations will be permitted to engage in *bona fide* arbitrage [38] or risk arbitrage [39] transactions so long as such transactions are recorded in an account used solely to record arbitrage transactions.

In addition to the current exceptions to the rule for odd-lot dealers to offset odd-lot orders for customers, and orders with delivery terms other than those specified in an unexecuted market or limit order, the Exchange has proposed two other exceptions. First, pursuant to proposed Rule 92(c)(3), transactions by a member or member organization that is acting in the capacity of a market maker or specialist in an NYSE-listed security otherwise than on the Exchange will not be subject to the restrictions of proposed Rule 92.[40] Second, pursuant to proposed Rule 92(c)(4), transactions by members made to correct *bona fide* errors will also be permitted.

In the Original Proposal, the NYSE proposed to extend the application of NYSE Rule 92 to other market centers. In Amendment No. 5, the NYSE withdrew this language but proposed to apply Rule 92 to those situations in which one or both trades (proprietary or agency) of a customer facilitation is effected on the NYSE. If neither segment of a customer facilitation transaction occurs on the exchange, proposed NYSE Rule 92 would not apply.

[28] The NYSE defines the term ''member'' as a natural person who is a member of the Exchange. *See* NYSE Constitution, Article I, Section 3(h).

[29] The NYSE defines the term ''member organization'' as a corporation or partnership, registered as a broker or dealer in securities under, unless exempt by, the Act, approved by the Board as a member corporation or member firm, at least one of whose officers or general partners or employees is a member of the Exchange, or which has the status of a member corporation or member firm by virtue of permission given to it pursuant to the rules of the NYSE. *See* NYSE Constitution, Article I, Sections 3(i), (j), and (k).

[30] In Supplemental Material .10 to proposed NYSE Rule 92, the Exchange proposed to define what constitutes knowledge for the purposes of the rule to provide that a member or employee of a member or a member organization that is responsible for entering proprietary orders shall be presumed to have knowledge of a particular customer order unless the member organization has implemented a reasonable system of internal policies and procedures to prevent the misuse of information about customer orders by those responsible for entering proprietary orders.

[31] In Supplemental Material .40 to proposed NYSE Rule 92, the Exchange proposed to define ''an account of an individual investor'' as having the same meaning ascribed to the term in NYSE Rule 80A. NYSE Rule 80A, Supplemental Material .40(c) defines such terms as an account covered by Section 11(a)(1)(E) of the Act, which includes an account of a natural person, the estate of a natural person, or a trust created by a natural person for himself or another natural person. *See* 15 U.S.C. 78k(a)(1)(E).

[32] According to the Exchange, it intends to inform its members and member organizations that, although the rule does not include express recordkeeping provisions with regard to evidencing customers' consent, members and member organizations will have the burden of proof to demonstrate that consent has in fact been obtained. *See* Original Proposal, note 4 *supra*. *See also* Amendment No. 2, note 8 *supra*.

[33] In Supplemental Material .40 to proposed NYSE Rule 92, the Exchange proposed to define a ''proprietary facilitation account'' an account in which a member organizations has a direct interest and which is used to record transactions whereby a member organization acquires positions in the course of facilitating customer orders.

[34] The Exchange also clarified that it believed that the exception should be extended to situations where a member organization enters into a binding contract with a customer to buy or sell a specified number of shares of a particular security at the closing price on the same day, with the contract to be completed after the close of trading on that day. According to the Exchange, it would consider such a binding contract, for the purposes of Rule 92 only, as the equivalent of the establishment of a block facilitation position so long as the contract is binding on both the customer and the member organization. In these circumstances, the member organization would be required to memorialize the block facilitation position by an entry or otherwise in a block facilitation account. Thereafter, the member organization could trade along with its customer's order to liquidate that position in accordance with the provisions of proposed paragraph (b) of Rule 92. *See* Amendment No. 6, note 17 *supra*.

[35] In Supplemental Material .40 to proposed NYSE Rule 92, the Exchange proposed to define ''*bona fide* hedge '' as having the meaning ascribed to it in Securities Exchange Act Release No. 15533 (January 29, 1979) (''Section 11(a) Release'').

[36] In Supplemental Material .50 to proposed NYSE Rule 92, the Exchange provided that for the purposes of NYSE Rule 92(b)(2), a hedge will be deemed to be ''clearly related'' if either the first or last transaction comprising the hedge is executed on the same trade date as the transaction that precipitates such hedge. Further, the provision requires a member to mark all memoranda of orders to identify each transaction creating or modifying a hedge as permitted under the rule.

[37] In Amendment No. 4, the Exchange stated that the determination of what constitutes an offset or reduction of risk may be made by the use of any responsible method of calculating the size of the risk and the type of securities, which would appropriately hedge that risk.

[38] In Supplemental Material .40 to proposed NYSE Rule 92, the Exchange proposed to define ''*bona fide* arbitrage'' as having the meaning ascribed to it in the Section 11(a) Release. *See* note 35 *supra*.

[39] In proposed Supplemental Material .40 to proposed NYSE Rule 92, the Exchange proposed to define ''risk arbitrage'' as having the meaning ascribed to it in the Section 11(a) Release. *See* note 35 *supra*.

[40] *See* Amendment No. 6, note 17 *supra*.

IV. Summary of Comments [41]

The Commission received three comments in response to Amendment No. 5.[42] The Exchange responded to the issues raised in these comment letters in Amendment No. 6 to the proposed rule change.[43]

One commenter supported the proposal and believed that it clearly promoted investor protection.[44] Another commenter questioned the reference to transactions by members and member organizations acting in the capacity of market makers pursuant to SEC Rule 19c–3,[45] as proposed in Rule 92(c)(3) in Amendment No. 5.[46] The commenter noted that, as a result of the rescission of NYSE Rule 390, such a distinction would be irrelevant. The Exchange agreed with the commenter's suggestion and subsequently amended the proposal in Amendment No. 6 to delete the reference to SEC Rule 19c–3.[47]

The third commenter raised several issues regarding the language of the proposal.[48] First, the commenter questioned the proposed definition of ''block size'' for purposes of the proposed Rule 92. As proposed, members and member organizations will be permitted to liquidate positions held in facilitation accounts, create *bona fide* hedges or modify existing hedges while representing a customer order if, among other things, their customer's order is for 10,000 shares or more. The commenter proposed that the NYSE adopt the definition set forth by the Commission in its Section 11(a) Release [49] for block orders. The commenter indicated that the Commission defined a ''block order'' for purposes of section 11(a)(1) of the Act [50] as one that ''represents at least 10,000 shares or a quantity of securities that has a current market value of at least $200,000, whichever is greater.'' The commenter believed that the Commission's disjunctive definition would enable members to provide liquidity to their customers by facilitating trades of high-priced securities in amounts less than 10,000 shares.

The Exchange responded that it continued to believe that the 10,000 share threshold for customers' orders is appropriate for the purposes of the limited trading along exceptions permitted by proposed Rule 92.

Second, the commenter proposed that the NYSE permit members and member firms to trade along with their high net worth customers as well as their institutional customers. The commenter believed that, subject to specified conditions, proposed Rule 92 should permit consensual trading along with sophisticated high net worth customers, who are capable of understanding allocations and to consenting to allocations on an informed basis.

The Exchange responded that it continued to believe that the limited trading along exceptions should be available only when the customer is not an individual investor.

Third, the commenter requested that the NYSE clarify the meaning of the phrase in proposed Rule 92(b) that requires a customer to understand the ''relative price and size of allocated execution reports.'' Specifically, the commenter requested that the Exchange clarify that a member or member firm may, with its customer's consent and subject to the other conditions of the proposed rule, allocate shares in any specified size (not to exceed the size of the facilitation position) to the member's or member firm's facilitation account.

The Exchange responded by clarifying that a member organization would not be precluded form allocating executions to its own account before allocating executions to its customer, but that the member organization would be required to inform the customer of this fact in advance and obtain the customer's express permission that it may do so. Further, the member organization must retain appropriate documentation that the customer was informed as to exactly how the execution would be allocated.[51]

Fourth, the commenter sought clarification on the proposed rule's application to program orders. Specifically, the commenter noted that the proposed rule should clarify the difference between an order to buy or sell an entire program and an order to buy or sell a single component security of such a program. The commenter requested that the NYSE specifically note that proposed Rule 92 does not restrict a member firm from executing a proprietary program order when holding a customer order in a component security, nor does it restrict a member firm's ability to execute a proprietary order in an individual security when holding a customer's program order includes that individual security.

The Exchange responded that it considered proprietary program orders to be subject to the restrictions against trading along with customer orders. However, the Exchange recognized that program trading desks at member organizations are typically distinct from trading desks that handle non-program customer orders. Therefore, the Exchange stated that proprietary program orders entered in accordance with the requirements of proposed Supplemental Material .10, which requires members or member organizations to establish a reasonable system of procedures to prevent the misuse of information about customer orders by those responsible for entering proprietary orders, could be entered notwithstanding the fact that the member organization may also be representing customer orders in the same stock executable at the same price.

Fifth, the commenter requested that the NYSE confirm that proposed Rule 92 does not apply to market-on-close (''MOC'') and limit-on-close (''LOC'') orders entered in connection with the Exchange's MOC and LOC policy. According to the commenter, because each MOC and LOC order is executed at the same time at the same closing price by the specialist, there is no opportunity for a member firm to ''front-run'' or otherwise take advantage of the market impact of a customer MOC or LOC order by entering a proprietary MOC or LOC order. Therefore, the commenter believed that MOC and LOC orders do not present the potential for abuse that the rule was designed to protect against and should not be subject to the constraints of the rule.

With regards to MOC orders, the Exchange stated that there would not be any restriction on a member organization entering proprietary MOC orders in the same stock as to which it also had entered a customer MOC order because all MOC order must be executed at the same price. With regards to LOC orders, however, the Exchange stated that, because a LOC order may or may not receive an execution, depending on the depth of contra side interest, a member organization may enter proprietary LOC orders with the same limit price as its customer's LOC order but, if the member organization receives an execution and its customer's

[41] The Commission notes that it received a total of 30 comment letters on the proposal. The Exchange has generally addressed the issues raised in the earlier comments letters by subsequently amending the proposal. Therefore, this discussion only reflects the issues raised in the comment letters received in response to Amendment No. 5.

[42] *See* note 15 *supra.*

[43] *See* Amendment No. 6, note 17 *supra.*

[44] *See* Archipelago Letter, note 15 *supra.*

[45] 17 CFR 240.19c–3.

[46] *See* Orrick Herrington Letter, note 15 *supra.*

[47] 17 CFR 240.19c–3.

[48] *See* Solomon Zauderer letter, note 15 *supra.*

[49] *See* note 35 *supra.*

[50] 15 U.S.C. 78k(a0(1).

[51] The Exchange also reiterated its interpretation regarding consent by stating that consent must be obtained with respect to each order that the member organization intends to trade along with, and that the member organization must retain appropriate documentation evidencing such consent.

order does not, the member organization must give up its execution to its customer.

Sixth, the commenter believed that the ''clearly related'' definition, in proposed Supplemental Material .50 relating to *bona fide* hedges, is unduly restrictive. Pursuant to proposed Rule 92(b)(2), a member or member organization may create a *bona fide* hedge, so long as, the hedge, among other things, is clearly related to the transaction precipitating the hedge. As proposed, a hedge will be deemed ''clearly related'' if either the first or last leg of the hedge is executed on the same trade date as the transaction that precipitates such hedge. According to the commenter, the ''same trade date'' requirement is unduly restrictive. The commenter asserted, as an example, that a derivatives desk needs to have flexibility in creating a hedge when determining whether to facilitate a customer's order, and, if so, at what price. Further, the commenter argued that a block desk that facilitates a customer's order based on a closing price, may hedge such a position as quickly as feasible when the market opens on the next trading day. Therefore, the commenter believed that the ''clearly related'' definition should be amended to permit a member to facilitate a trade if the first or last leg of the hedge is effected ''within one trading day,'' which the commenter proposed to define as the period between the time of the facilitation transaction and the same time on the next subsequent or immediately preceding trading day.

The Exchange believed that the ''same trade date'' condition to be an appropriate limitation on the ability of member organizations to trade along with their customers. The Exchange stated that it intended the hedge exemption to be narrowly construed but noted that, while the initiation of a hedge should be reasonably proximate to the transaction precipitating the hedge, a member organization is not strictly required to complete the hedge on the same trade date as the precipitating transaction. However, the Exchange cautioned that a hedge started on the same trade date as the precipitating transaction but not completed until several days later would not be deemed to be ''clearly related'' unless there were unusual or extenuating circumstances.

In addition to amending the ''clearly related'' definition, the commenter requested that NYSE classify the definition as a safe harbor, and therefore, it a hedge transaction is executed outside of the specified time period, such a transaction will not automatically be deemed to be outside of the ''clearly related'' definition, and thus, in violation of proposed Rule 92.

According to the Exchange, the ''clearly related'' definition is not a safe harbor. Thus, transactions occurring outside of the rule's time limitations would be in violation of the rule.[52]

In relation to the hedge exception, the commenter also noted that Amendment No. 5 deleted the requirement that the risk to be hedged be the result of a ''previously-established position,'' as proposed in Amendment No. 4. According to the commenter, this change signifies the the proposal permits a member firm to create a hedge either prior to, or subsequent to, effecting the facilitation trade. Therefore the commenter suggested revising proposed Rule 91(b)(2)(iii) to reflect this change by reading ''* * * the risk to be offset is the result of a position acquired *or to be acquired* in the course of facilitating a customer's order * * *''.

The Exchange responded that it believed that the hedge exemption is available only to offset the risk of a facilitation position that has been acquired, or that the member knows it will acquire in order to facilitate a specific customer order that it has received. Further, the Exchange stated that the hedge exemption is not available to offset the risk of a position that the member organization believes it will acquire, absent having received a specific customer order that the member organization will be facilitating.

Finally, the commenter, while supporting the Exchange's proposal to use the definitions for ''*bona fide* hedge,'' ''*bona fide* arbitrage,'' and ''risk arbitrage'' that are found in the Section 11(a) Release, suggested that the Exchange consider a flexible approach to their intepretation. Specifically, the commenter requested that the Exchange consider the definitions as capable of being adapted to reflect changing market conditions and evolving trading practices.

The Exchange responded that it was not inclined to adopt a flexible approach to defining these terms. According to the Exchange, adopting flexible definitions could create enforcement and compliance problems. Thus, the Exchange believes that its approach would lead to better and more even-handed enforcement of the rule.[53]

[52] Telephone call between Brian McNamara and Don Siemer, NYSE, and Alton Harvey and Kelly Riley, Division, SEC, on June 26, 2000.

[53] *Id.*

V. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[54] In particular, the Commission believes the proposal is consistent with the requirements of section 6(b)(5) of the Act,[55] which requires, among other things, that the rules of an exchange be designed to prevent fradulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The NYSE first proposed to amend its Rule 92 in 1994. Since then, the Exchange has repeatedly amended its proposal in order to address the significant policy issues raised by commenters. The Commission recognizes that this time-consuming process has been necessary in order to permit the Exchange to craft its revised Rule 92 in a manner that balances fundamental investor protections with the requirements of evolving trading practices involving institutional investors and member firm proprietary trading operations.

A. Application of NYSE Rule 92 to Activities on Other Market Centers

As originally submitted, the Exchange's proposal was drafted in a very broad manner that cast a wide net over many market participants and transactions that were not connected to the NYSE. Several regional exchanges voiced their opposition to the Original Proposal and the ensuing amendments.[56] For example, in its letter responding to Amendment No. 2, the CSE argued that the proposed rule ''would establish an inappropriate precedent for the extension of NYSE's regulatory jurisdiction beyond the boundaries established by the national market system, section 17(d) of the Act[57] and the ISG Agreement.''[58]

This issue remained controversial throughout the filing process until the NYSE withdrew the ''other market center'' provision in Amendement No. 5.[59] The Commission believes that the

[54] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[55] 15 U.S.C. 78f(b)(5).

[56] *See* comment letters submitted by the BSE, CSE, CHX, Phlx, notes 7, 9, 11, and 13 *supra*.

[57] 15 U.S.C. 78q(d).

[58] *See* note 14 *supra*.

[59] For example, the Phlx reiterated its objection to the NYSE's proposed jurisdiction over orders entered on market other than the NYSE, as

Continued

NYSE has sufficiently narrowed the focus of Rule 92 to be consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, section 6(b)(5) of the Act[60] requires that an exchange's rules not be designed to regulate matters not related to the purposes of the administration of the exchange.

Rule 92, as amended, now applies only to those situations in which one or both trades (proprietary or agency) of a customer facilitation is effected on the NYSE. If neither segment of a customer facilitation transaction occurs on the Exchange, proposed NYSE Rule 92 would not apply. In Supplementary Material .20, the Exchange proposes to apply the rule's restrictions to any agency or proprietary transaction effected on the Exchange if the Exchange transaction is part of a group related transactions that together have the effects prohibited by the rule, regardless of whether one or more transactions occur on other market centers or the Exchange transaction itself had such effects. The Commission believes that this provision is a reasonable measure to ensure that NYSE members and member organizations are not able to circumvent the restrictions of the rule. Further, the Commission notes that the restriction regarding member trading on other market centers is narrowly tailored to be applicable only to orders that have an adequate nexus to activities on the NYSE.

B. Expansion of Rule To Cover Member Organizations

According to the Exchange, Rule 92 was originally adopted to express the agency law principle that an agent must put the interests of its customer ahead of its own proprietary interests. The Commission believes that the Exchange's proposal to expand the applicability of Rule 92 to include member organizations is reasonably designed to enhance investor protection and is consistent with the requirements of the Act. Today, member organizations are accepting customer orders and facilitating their execution. The customers of these member organizations deserve the same types of protections as customers whose orders are represented by members on the floor of the Exchange.

C. Permitted Member and Member Organization Transactions

Today, many member organizations engage in trading for their own accounts in order to facilitate their customers' orders. These trading practices potentially subject the member organizations to significant market risks. The Exchange believes that the restrictions set forth in existing Rule 92 would prevent member organizations from adequately minimizing these market risks if the firm is representing customer orders for the same securities. The Commission believes that the NYSE has struck an appropriate balance in the rule by enabling its member organizations to limit their risk exposure in narrow circumstances involving informed institutional investors while maintaining the basic principles of agency law and investor protections.

The member or member organization will be required to obtain its customer's consent to trade along with the customer and such consent must include the customer's understanding of the relative price and size of the member's or member organization's allocated execution reports. In addition, a member or member organization will be permitted to trade along with a customer with consent only if the customer is not an individual investor as defined by NYSE Rule 80A.[61] A member or member organization will be required to ensure that each of these conditions is satisfied before entering the proprietary transactions permitted by the proposed rule.

The Commission believes that these conditions are reasonable and should preserve investor protections when a member or member organization proposes to trade along with its customers. By requiring affirmative consent, the rule gives the customer the opportunity to decide whether or not to permit its agent to trade for the agent's own accounts while representing the customer's order. The customer will not be required to give consent and a failure to respond to the firm's inquiry will not be deemed to be consent. Of course, if a customer does not consent, the member or member organization may decide not to accept the customer's order. On the other hand, the member or member organization may decide to accept its customer's order and refrain from trading in the same security for its proprietary accounts while representing its customer's order. In either case, revised Rule 92 should provide customer with the disclosure necessary to assist them in making decisions about their broker's order handling practices.[62]

One commenter suggested that members be permitted to trade along with thigh net worth customers, which the Exchange declined to do.[63] The Commission believes that the Exchange has made a reasonable determination to limit a member's or a member organization's ability to enter proprietary orders to those instances where the member or member organization has obtained consent from a customer who is not an individual investor. The Commission believes that the Exchange has reasonably sought to maximize investor protection by limiting consent under Rule 92 to the type of customer that is more likely to have the sophistication and market knowledge needed to fully appreciate the implications of permitting, or not permitting, a broker-dealer to trade along with its order.

Once consent has been obtained, the Exchange has proposed to permit its members and member organizations to enter four types of proprietary transactions while representing their customer orders. As described above, members and member organizations will be permitted, subject to certain restrictions, to (1) liquidate positions held in proprietary facilitation accounts when their customer's order is for at least 10,000 shares;[64] (2) create *bona fide* hedges; (3) modify existing hedges; and (4) engage in *bona fide* arbitrage or risk arbitrage transactions.

The Commission believes that the Exchange's decision to allow members and member organizations to engage in these limited types of transactions,

submitted in Amendment No. 3. *See* note 11 *supra.* Later, the CSE restated its continued objection to the NYSE's proposal by arguing that the NYSE's proposal, submitted in Amendment No. 4, to impose its jurisdiction over CSE matters would be ''overreaching.'' *See* note 13 *supra.*

[60] 15 U.S.C. 78f(b)(5).

[61] *See* note 31 *supra.*

[62] One commenter requested clarification with regards to the consent provision that requires the customer to understand the relative price and size of allocated reports. *See* Solomon Zauderer Letter, note 15 *supra.* The Exchange responded that a member may allocate executions to its own account before its customer so long as the customer consents in advance to the allocation. The Commission believes that the Exchange's determination on this issue is reasonable but expects that the Exchange will monitor its members to ensure that they are adequately explaining the allocation methods to their customers to ensure that customers are readily informed and have a clear understanding upon which to base their consent decisions.

[63] *See* Solomon Zauderer Letter, note 15 *supra.*

[64] The Commission notes that the Exchange proposed to permit limited proprietary trading, except for arbitrage and risk arbitrage transactions, to those instances where the member or member organization holds a block size order, which the Exchange defined as an order for at least 10,000 shares. One commenter suggested that the Exchange modify its definition to recognize orders for higher priced securities that may not be for at least 10,000 shares, which the Exchange declined to accept. *See* Solomon Zauderer Letter, note 15 *supra.* The Commission believes that the Exchange has limited its definition for appropriate regulatory reasons.

subject to their customers' consent, should promote just and equitable principles of trade. Many of these proprietary transactions will add liquidity to the market and help investors receive efficient execution of their orders. Moreover, the Commission believes that members and member organizations should be more willing to facilitate large transactions for customers when they are able to minimize their proprietary risk by entering trades for their proprietary accounts.[65]

The Commission also notes that the facilitation of block size orders is a service needed by many institutional investors. Many orders of block size cannot be executed in the markets as a single order without significantly affecting the price of the security. Thus, these services may contribute to stability in the markets and many contribute to customers being afforded a fair and stable price for their order.

The Commission therefore believes that the proprietary trading exceptions balance the interests of investor protection with the interests of a free and open market. Each type of permitted proprietary transaction has been narrowly drafted to allow only very specific types of member transactions. Moreover, because members and member organizations will be required to obtain customer consent before they enter a facilitation transaction, customers should be protected. In sum, the Exchange has recognized the needs of its members to be able to facilitate their customers' orders by minimizing their proprietary risks, while also reinforcing and maintaining the paramount interests of the investor. The Commission notes that these exceptions do not minimize the importance of the broker-dealers' duty to their customers, which requires broker-dealers to place investors' interests before their own. On the contrary, members and member organizations remain obligated to consider their customers' interest in every customer transaction.

The Commission notes that one commenter raised concerns that the ''clearly related'' definition for *bona fide* hedges was unduly restrictive and requested clarification that the definition was intended as a safe harbor.[66] The Exchange has declined to broaden its definition along these lines or suggest that this provision was designed to act as a safe harbor. Instead, the Exchange has indicated that its proposed interpretation should enable it to enforce compliance in a fair and reasonable manner. The Commission believes that the Exchange's determination in this matter appears to be reasonable and consistent with the requirements of the Act. The Commission notes that, while the definition requires that the initiation of the hedge must be reasonably proximate to the trade precipitating the hedge, the hedge does necessarily need to be completed on the same trade date.

D. Other Transactions

The Exchange proposed two new exceptions to the trading restrictions in proposed Rule 92(c). Specifically, in addition to the current exceptions regarding odd lot transactions and orders with delivery terms other than those specified in an unexecuted market or limit order, the Exchange also proposed to permit (1) transactions by members or member organizations that are acting in the capacity of a specialist or market maker in a security listed on the Exchange that are executed off the Exchange, and (2) transactions made to correct *bona fide* errors. The Commission believes that these new exceptions are appropriate and consistent with the requirements of the Act. The Commission notes that exception transactions by members acting as specialists or market makers executed on markets other than the Exchange from coverage of the rule should ensure that the liquidity created and maintained by these market participants on the regional exchanges and the Nasdaq Intermarket is not compromised. Further, the Commission notes that Exchange would not have the authority to enforce compliance with NYSE trading rules on members trading exclusively on other national securities exchanges, the Nasdaq Intermarket, or the over-the-counter market. Finally, the Commission believes that it is necessary to permit transactions to correct *bona fide* errors, but the Commission expects the Exchange to monitor the activities of its members to ensure that this provision is not abused.

E. Supplementary Material

In Supplemental Material .30, the Exchange clarified that floor members of a member organization will be restricted in the same manner as their member organization when entering proprietary orders. Thus, a floor member of a member organization may not enter a proprietary order at the same or better price as an unexecuted customer order, except to the extent that the member organization could do so under the rule. The Commission believes that this clarification should assist in the enforcement of the rule by providing clear notice of a floor member's prohibited activities.

In Supplemental Material .40, the Exchange has proposed definitions for the terms ''account of individual investor,'' ''Proprietary facilitation account,'' ''*bona fide* hedge,'' ''*bona fide* arbitrage,'' and ''risk arbitrage.'' The Commission believes that these definitions should provide clarity to the rule and should help in member compliance and Exchange enforcement of the Rule.

F. Amendment No. 6

The Commission finds good cause to approve Amendment No. 6 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In addition to responding to the issues raised in the Solomon Zauderer Letter, the Exchange amended the test of the rule to delete the reference to SEC Rule 19c–3[67] securities. The Commission notes that, since the rescission of NYSE Rule 390, this provision is no longer relevant. Therefore, because Amendment No. 6 merely made the rule accurate in light of recent events and did not change the intent or substance of the proposed rule change, the Commission believes that good cause exists, pursuant to sections 6(b)(5)[68] and 19(b)[69] of the Act, to accelerate approval of Amendment No. 6 to the proposed rule change.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 6, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth

[65] One commenter requested clarification regarding members' responsibilities and obligations when handling program orders and component stocks of program orders. *See* Solomon Zauderer Letter, note 15 *supra.* As the Exchange noted, the commenter's issue could be resolved by the member using the information barriers permitted in Supplemental Material .10, to restrict the flow of knowledge between a member's program trading desk and those responsible for entering customer orders.

The commenter also requested guidance with respect to MOC and LOC orders. Because of the nature of these orders, the Exchange responded that it did not believe that the rule would restrict MOC orders but would, in some cases, restrict proprietary LOC orders. The Commission believes that this interpretation is consistent with ensuring investor orders are handled appropriately.

[66] *See* Solomon Zauderer Letter, note 15 *supra.*

[67] 17 CFR 240.19c–3.

[68] 15 U.S.C. 78f(b)(5).

[69] 15 U.S.C. 78s(b).

Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any other person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filings also will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–34 and should be submitted by April 27, 2001.

VII. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[70] that the amended proposed rule change (SR–NYSE–94–34) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[71]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8508 Filed 4–5–01; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–121]

Identification of Priority Foreign Country; Initiation of Section 302 Investigation; Proposed Determinations and Action; and Request for Public Comment: Intellectual Property Laws and Practices of the Government of Ukraine

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of identification of priority foreign country; notice of initiation of investigation; proposed determination and action; request for written comments; invitation to participate in public hearing.

SUMMARY: Pursuant to section 182(c)(1)(B) of the Trade Act of 1974, as amended (the Trade Act), the United States Trade Representative (Trade Representative) has identified Ukraine as a priority foreign country due to its denial of adequate and effective protection of intellectual property rights. Pursuant to section 302(b)(2) of the Trade Act, the Trade Representative has also initiated a section 302 investigation of the acts, policies and practices of the Government of Ukraine that resulted in the identification of Ukraine as a priority foreign country. The Office of the United States Trade Representative (USTR) proposes determinations that these acts, policies and practices are actionable under section 301(b) and that the appropriate response includes a full or partial suspension of duty-free treatment accorded to products of Ukraine under the Generalized System of Preferences (GSP). USTR invites interested persons to submit written comments and to participate in a public hearing concerning the proposed determinations and action.

DATES: The identification was made, and the investigation was initiated, on March 12, 2001. Requests to appear at the public hearing are due April 13, 2001; written testimony is due April 20, 2001; a public hearing will be held on April 27, 2001; and written comments and rebuttal comments are due by May 7, 2001.

ADDRESSES: Requests, comments, and testimony should be submitted to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–121, Office of the United States Trade Representative, 1724 F Street, NW, Room 217, Washington, DC 20508. The public hearing will be held in the main hearing room of the United States International Trade Commission, 500 E Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Kira Alvarez, Director for Intellectual Property, (202) 395–6864; Richard Driscoll, Director for Central Europe and Ukraine, (202) 395–5190; William Busis, Associate General Counsel, (202) 395–3150; or Stephen Kho, Assistant General Counsel, (202) 395–3581. Inquiries regarding participation in the hearing or the submission of comments should be directed to Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419.

SUPPLEMENTARY INFORMATION:

Section 182 of the Trade Act

Section 182 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2242), authorizes the Trade Representative to identify foreign countries that deny adequate and effective protection of intellectual property rights or that deny fair and equitable market access to persons that rely on intellectual property protection. Procedures under section 182 are commonly referred to as ''Special 301.''

Under section 182(d)(2) of the Trade Act, a foreign country is considered to be denying adequate and effective protection of intellectual property rights if it denies adequate and effective means under its laws for persons who are not citizens or nationals of the country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works. Under section 182(b), countries that have the most onerous or egregious acts, policies, or practices that have the greatest adverse impact (actual or potential) on the relevant United States products must be identified as ''priority foreign countries,'' unless they are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection for intellectual property rights. In identifying countries in this manner, USTR is directed to take into account the history of intellectual property laws and practices of the foreign country, including any previous identifications as a priority foreign country; and the history of efforts of the United States to achieve adequate and effective protection and enforcement of intellectual property rights. In making these determinations, USTR consults with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officials of the Federal Government, and takes into account information from other sources such as information submitted by interested persons.

Identification of Ukraine as a Priority Foreign Country

Enterprises in Ukraine are engaged in the large-scale production and export of unauthorized optical media (such as CDs, CD–Rs, DVDs, and V–CDs). The Recording Industry Association of America alleges that for each of the last two years, Ukraine has produced and exported between 30 and 40 million pirated CDs. Ukraine reportedly has the annual capacity to produce up to 70 million CDs, while annual domestic demand is only in the range of 1 to 5 million CDs. In short, Ukraine has become a world leader in pirated optical media production.

For over two years, the United States Government has requested that the Ukrainian Government close down the pirate CD production facilities and enact legislation to adequately protect copyrights. The Ukrainian Government has been unwilling to curtail such activities or to enact necessary legislation. During the annual Special 301 review in April 2000, the interagency Trade Policy Staff

[70] 15 U.S.C. 78s(b)(2).

[71] 17 CFR 200.30–3(a)(12).

Committee recommended that ''Ukraine would be designated a priority foreign country on August 1, 2000 unless the Government of the Ukraine makes substantial progress in eliminating production of pirated optical media in its territory.''

At a summit held in June 2000, the President of Ukraine endorsed a U.S.-Ukraine Joint Action Plan to Combat Optical Media Piracy. The three key components of the Joint Action Plan are (1) to suspend the pirate activities while putting necessary legislation in place, (2) to provide copyright protection to foreign sound recordings, and (3) to adopt a strict optical media licensing regime. Given these commitments, the United States deferred a decision on priority foreign country identification until November 2000. The United States subsequently extended the decision date until March 1, 2001 in order to allow Ukraine sufficient time to implement its anti-piracy commitments.

As of March 1, 2001, however, the Ukrainian Government failed to make any significant progress in meeting the critical components of the Joint Action Plan. Enterprises in Ukraine continue to produce and export unauthorized CDs on a large scale, and necessary legislation on the enforcement of intellectual property rights remains unenacted.

As a result, on March 12, 2001 the Trade Representative identified Ukraine as a priority foreign country under section 182 of the Trade Act. The identification was based on (1) deficiencies in Ukraine's acts, policies and practices regarding the protection of intellectual property rights, including the lack of effective action enforcing intellectual property rights, as evidenced by the alarming levels of compact disc piracy within the country; and (2) the failure of the Government of Ukraine to enact adequate and effective intellectual property legislation addressed to enforcement and optical media piracy.

Section 301 Investigation and Consultations

Under Section 302(b)(2) of the Trade Act (19 U.S.C. 2412(b)(2)), the Trade Representative shall initiate an investigation under Chapter 1 of Title III of the Trade Act (commonly referred to as ''section 301'') with respect to any act, policy or practice that was the basis of the identification of a country as a priority foreign country under section 182 of the Trade Act, unless such acts, policies and practices are already subject to investigation or action under section 301, or unless the investigation is not in the national economic interest. Neither exception applies.

Accordingly, simultaneously with the identification of Ukraine as a priority foreign country, on March 12, 2001 the Trade Representative initiated an investigation to determine whether the acts, policies, and practices of Ukraine that resulted in the priority foreign country identification are actionable under section 301(b) of the Trade Act. Matters actionable under section 301(b) include acts, policies, or practices of a foreign country that are unreasonable and burden or restrict U.S. commerce. Under section 301(d)(3)(B)(i)(II) of the Trade Act, unreasonable acts, policies or practices include any act, policy or practice which denies fair and equitable provision of adequate and effective protection of intellectual property rights.

As provided under section 303(a) of the Trade Act, by letter dated March 12, 2001 USTR requested consultations with the Government of Ukraine regarding the issues under investigation. USTR will seek information and advice from appropriate representatives provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Proposed Determinations and Action

Based on the acts, policies and practices of the Government of Ukraine that resulted in the identification of Ukraine as a priority foreign country under section 182 of the Trade Act, USTR proposes determinations under sections 304(a)(1)(A) and 301(b) of the Trade Act that the acts, policies, and practices of Ukraine with respect to the protection of intellectual property rights are unreasonable and burden or restrict United States commerce, and that action by the United States is appropriate.

Section 301(b)(2) of the Trade Act authorizes the Trade Representative to take all appropriate and feasible action authorized under section 301(c) to obtain the elimination of the actionable acts, policies, or practices. Section 301(c)(1)(B) authorizes the Trade Representative to impose duties or other import restrictions on the goods of the foreign country subject to the investigation. Section 301(c)(1)(C) provides that in a case in which the act, policy, or practice of the foreign country also fails to meet the eligibility requirements for duty-free treatment under the GSP, the Trade Representative may withdraw, limit or suspend such treatment. The GSP includes an eligibility requirement concerning the extent to which the foreign country provides adequate and effective protection of intellectual property rights (section 502(c)(5) of the Trade Act (19 U.S.C. 2462(c)(5))).

Under sections 304(a)(1)(B) and 301(c)(1)(C) of the Trade Act, USTR proposes a determination that appropriate and feasible action includes the suspension of duty-free treatment accorded under GSP to some or all products of Ukraine. As a further step, USTR may also consider increased duties or other import restrictions on Ukrainian goods. Ukraine's leading exports to the United States are steel, chemical products, aircraft and parts, textile products, fertilizers and aluminum. Before the imposition of increased duties or other import restrictions on Ukrainian goods under section 301(c)(1)(B) of the Trade Act, however, USTR would expect to publish a second notice requesting comments with regard to the possible imposition of increased duties or other import restrictions on a specific list of products. At this time, the only product-specific comments requested by USTR are comments concerning the possible suspension of GSP benefits.

Written Comments and Public Hearing

In accordance with section 304(b) of the Trade Act, USTR invites interested persons to provide comments on the matters under investigation and the proposed determinations. The requested comments include comments on: (i) The acts, policies and practices of the Government of Ukraine that are the subject of this investigation; (ii) the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices; (iii) whether the acts policies and practices of Ukraine are actionable under section 301(b); and (iv) appropriate action under section 301 which could be taken in response. As noted, USTR proposes that appropriate action under section 301 should include the full or partial suspension of GSP duty-free treatment for products of Ukraine. USTR requests that comments on the proposed action address the degree to which suspension of GSP duty-free treatment on particular products of Ukraine might have an adverse effect on U.S. businesses—including small-and medium-sized businesses—and on consumers.

Written comments are due by May 7, 2001. A public hearing addressed to these same issues will be held on April 27, 2001 in the main hearing room of the United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. Interested persons wishing to testify orally at the hearings must provide a written request by April 13, 2001 to Sybia Harrison, Staff Assistant to the Section 301

Committee, ATTN: Docket 301–121, Office of the United States Trade Representative, 1724 F Street, NW., Room 217, Washington, DC 20508. Requests to testify must include the following information: (1) Name, address, telephone number, fax number, and firm or affiliation of the person wishing to testify; and (2) a brief summary of the comments to be presented. After the Chairman of the Section 301 Committee considers the request to present oral testimony, Ms. Harrison will notify the applicant of the time of his or her testimony. In addition, persons presenting oral testimony must submit their complete written testimony by April 20, 2001. In order to allow each interested party an opportunity to contest the information provided by other parties at the hearing, USTR will accept written rebuttal comments, which must be filed by May 7, 2001. Rebuttal comments should be limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearing and should be as concise as possible. All written comments must state clearly the position taken, describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–121, Office of the United States Trade Representative, 1724 F Street, NW., Room 217, Washington, DC 20508.

Comments will be placed in a file (Docket 301–121) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of the 20 copies, and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3, First Floor, Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508.

William Busis,

Chairman, Section 301 Committee.

[FR Doc. 01–8510 Filed 4–5–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program, Port Columbus International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Columbus Municipal Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 3, 2000, the FAA determined that the noise exposure maps submitted by the Columbus Municipal Airport Authority under Part 150 were in compliance with applicable requirements. On January 10, 2001, the FAA approved the Port Columbus International Airport noise compatibility program. All of the recommendations of the program were approved. A total of twenty-two (22) measures were included in the Columbus Municipal Airport Authority recommended program. Of the twenty-two measures, five (5) are listed as ''Noise abatement Plan Measures'', eleven (11) are listed as ''Land Use Management Plan'', and six (6) are listed as ''Program Management Measures.'' The FAA has approved all twenty-two (22) measures.

EFFECTIVE DATE: The effective date of the FAA's approval of the Port Columbus International Airport noise compatibility program is January 10, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Jagiello, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–670.1, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (734) 487–7296. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Port Columbus International Airport, effective January 10, 2001.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to the FAA's approval of an airport noise compatibility are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental

assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports Districts Office in Belleville, Michigan.

The Columbus Municipal Airport Authority submitted to the FAA on June 14, 1999, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 1, 1997 through December 31, 1997. The Port Columbus International Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on January 3, 2000. Notice of this determination was published in the **Federal Register** on February 4, 2000.

The Port Columbus International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from June 14, 1999 to the year 2003. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on July 14, 2000, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-two (22) proposed actions for noise mitigation on and/or off the airport, as applicable. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program therefore, was approved by the FAA effective January 10, 2001.

Outright approval was granted for all twenty-two (22) of the specific program elements. Five (5) of the twenty-two (22) measures submitted are listed as ''Noise Abatement Plan Measures.'' These include an amendment to the Night Time Aircraft Maintenance Runup Policy to designate an additional run-up location at the north airfield; the construction of a new run-up barrier at the north airfield; continue use of the informal Nighttime Preferential Runway Use program in effect at CMH with an amendment to increase nighttime use of Runway 10L/28R; amend FAA Tower Order CMH ATCT 7110.1 and publish an informal preferential runway use system in the Airport Facilities Directory to maximize east flow; and amend the language in the FAA Tower Order CMH ATCT 7110.1 and FAA Notice CMH ATCT N7110.22 to comply with FAA requirements. Eleven (11) of the twenty-two (22) measures are listed as ''Land Use Measures.'' These include noise insulation of noncompatible structures, residences, and churches within the DNL 65+ dB contour of the Year 2003; seek cooperation from the City of Columbus and Franklin County to amend their Land Use Compatibility Standards and the boundaries of the Airport Environs Overlay (AEO) District; encourage Franklin County to amend their County Zoning Resolutions; encourage Jefferson Township and the City of Gahanna to adopt the AEO-Airport Environs Overlay District as part of their zoning regulations; encourage Franklin County, Jefferson Township, Mifflin Township, and the City of Gahanna to adopt subdivision codes and building codes applicable to the AEO district; encourage the Board of Realtors to participate in voluntary fair disclosure program for property located within the AEO District; periodically place advertisements in the real estate sections of local newspapers delineating the boundaries of the AEO District; purchase the Buckles property. Six (6) of the twenty-two (22) measures are listed as ''Program Management Measures.'' These include maintaining the noise abatement measure of the FAA ATCT Tower Order; maintaining the Noise Management Office, public involvement program, and the noise and flight track monitoring system; routinely update the noise contours and periodically update the noise program; and establish a land use compatibility task force.

These determinations are set forth in detail in a Record of Approval signed by the Associate Administrator on January 10, 2001. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Columbus Municipal Airport Authority.

Issued in Belleville, Michigan, March 8, 2001.

Irene Porter,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 01–8441 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee.

DATES: The meeting will be held on April 25 and 26, 2001 and will begin at 9 a.m. on April 25.

ADDRESSES: The meeting will be held at FAA in the Bessie Coleman Conference Center, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of the Aging Transport Systems Rulemaking Advisory Committee, which will be held at FAA, the Bessie Coleman Conference Center, 800 Independence Avenue, SW., Washington, DC 20591.

The meeting agenda will include the following:

April 25, 2001

- Review and Approve Minutes
- Present New Tasks
- Review ATSRAC Rulemaking Process
- Review Tasking Schedule
- Begin Discussion of Tasks

April 26, 2001

- Continue Discussion of Tasks

Attendance is open to the public but will be limited to the availability of meeting room space. The FAA will arrange teleconference capability for individuals who wish to participate by teleconference if we receive notification before April 12. Callers from outside the Washington, DC metropolitan area will be responsible for paying long distance charges. We can also provide sign and oral interpretation as well as a listening device if requests are made within 10 calendar days before the meeting. You may arrange for these services by contacting the person listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee at any time by providing 20 copies to the

Committee's Executive Director or by bringing the copies to the meeting. Public statements will only be considered if time permits.

Issued in Washington, DC on March 29, 2001.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 01–8442 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2001–8698]

Petition for Special Approval of Alternative Fuel Tank Safety Standard Petition for Waiver of Compliance

In accordance with Title 49 of the Code of Federal Regulations (CFR), part 238 (Passenger Equipment Safety Standards), and 49 CFR part 211 (Rules of Practice), notice is hereby given that the Federal Railroad Administration (FRA) has received a request captioned as a petition for special approval to use an alternative fuel tank safety standard. FRA is hereby providing the public an opportunity to comment on this petition.

As specified in 49 CFR part 238.223 (Locomotive fuel tanks), paragraph (a), external passenger locomotive fuel tanks must comply with safety requirements contained in appendix D to 49 CFR part 238, or an industry standard providing at least an equivalent level of safety if approved by FRA under 49 CFR part 238.21. The American Public Transportation Association (APTA) has petitioned FRA for special approval to use industry standard APTA SS–C&S–007–98 Rev. 1, Standard for Fuel Tank Integrity on Non-Passenger Carrying Passenger Locomotives, as an alternative standard to fulfill the requirements of 49 CFR part 238.223. APTA's petition, including a copy of APTA SS–C&S–007–98 Rev. 1 and a comparison of this standard to FRA's requirements specified in 49 CFR part 238.223, is available for public examination as explained below.

APTA's petition for special approval appears to encompass both the external passenger locomotive fuel tank safety standards in 49 CFR part 238.223, paragraph (a), and the internal passenger locomotive fuel tank safety standards specified in 49 CFR part 238.223, paragraph (b).

FRA notes that 49 CFR part 238.223, paragraph (b), does not expressly provide the opportunity to seek special approval of an alternative, internal fuel tank safety standard. Insofar as a portion of APTA's request relates to the internal fuel tank safety standard specified in 49 CFR part 238.223, paragraph (b), FRA will consider that portion of the request a request for a waiver of compliance to be evaluated under the requirements of 49 CFR part 211. Otherwise, FRA will evaluate APTA's request as a petition for special approval of an alternative, external locomotive fuel tank safety standard to be evaluated under the requirements of 49 CFR part 238.

Interested parties are invited to participate in this proceedings by submitting written views, data, or comments as to the safety of APTA's alternative fuel tank safety standard. FRA does not anticipate scheduling a public hearing in connection with this proceeding. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for the request. All communications concerning this proceeding should identify the appropriate docket number, Docket Number FRA–2001–8698, and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW., Washington, DC. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is 3 taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC on March 26, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–8433 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Guilford Rail System (GRS) has petitioned the Federal Railroad Administration (FRA) for a waiver of the Federal Track Safety Standards, Section 213.113, Defective Rails, which requires specific remedial actions for various types of rail flaws.

The Guilford Rail System

[Docket Number FRA–2000–8623]

GRS states that it voluntarily instituted a program to perform continuous searches for internal defects on certain lower speed branch lines when the Track Safety Standards do not mandate those inspections to be made. The standards require internal flaw inspections at various frequencies on Class 3 through 9 track.

In the event that rail defects are located during the additional rail inspections, which are not required by the safety standards, GRS requests that the railroad be able to use its discretion to decide whether operational safety would be protected by applying speed restrictions as the remedial action, or whether the specific remedial actions required by Section 213.113 are warranted. According to GRS, the goal of the program is to discover and address defects in rails before those conditions reach a level that may affect the safety of trains.

GRS states that the effect of the program would be to promote safety by allowing it to perform more comprehensive rail inspections. GRS expects the waiver to increase the safety on branch lines, with the expectation of fewer instances of derailments due to track conditions.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding, however, if any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should be identified with Docket Number FRA–2000–8623 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 400 7th Street, SW., Washington, DC 20590–0001.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered to the extent possible. GRS's petition and all written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All documents in the public docket are also available

for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC, on April 2, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–8432 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below including, the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Wabtec Railway Electronics

[Docket Number FRA–2001–9270]

Wabtec Railway Electronics (Wabtec) seeks a permanent waiver of compliance from certain provisions of the *Railroad Power Brake and Drawbars* regulations, 49 CFR 232, regarding two-way end-of-train devices. Specifically, section 232.23(f)(2) requires:

> The rear unit batteries shall be sufficiently charged at the initial terminal or other points where the device is installed and throughout the train's trip to ensure that the end-of-train-device will remain operative until the train reaches its destination.

Wabtec has recently developed an air generator for its TrainLink II End-of-Train units and plans to market the product under the trade name of TrainLink II–ATX. Wabtec states that this new product eliminates the need for separate battery packs by using brake pipe pressure to drive an air turbine and associated electrical generator. The generator provides sufficient electrical power for the EOT to perform all EOT functions and to charge a small backup battery with brake pipe pressure as low as 55 psi. Below 55 psi, the backup battery provides power for at least 5 hours from a fully charged condition. Air flow to the generator is filtered for particulates and water to prevent clogging of the turbine nozzle. At 90 psi, the air flow is about 1.3 SCFM and decreases to 1.0 SCFM at 55 psi. Wabtec tested the product on a 150-car air brake test rack at their facility in Germantown, Maryland, and provided the following summarized results:

(1) With the brakes released and brake pipe pressure at 90 psi, air flow from the generator causes a 0.2-psi pressure drop at the rear of the train. This incremental 0.2-psi drop is the same regardless of the amount of gradient caused by other leaks. For example, a 15-psi gradient was simulated by introducing a leak at car 145. When the air motor is cut-in, the pressure at car 150 drops by an additional 0.2 psi.

(2) Although Wabtec believes a sudden blockage of the air nozzle is unlikely, tests were performed to ensure that a sudden drop in air flow to the turbine would not cause the brakes to release. With the air generator cut-in, no additional simulated leaks, and brakes released at 90 psi, a minimum application was initiated. Pressure was monitored every 20 cars along the rack. Thirty seconds after the minimum application was initiated, the air motor was cut-out. Brakes did not release.

(3) The test in item 2 was repeated with delay times of 60 and 90 seconds after the minimum brake application was initiated. The brakes did not release in any case.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2001–9270) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 3 Washington, DC 20590–0001. Communications received within 35 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC on April 2, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–8435 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 24]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (''RSAC'') meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The meeting will address a wide range of topics, including possible adoption of specific recommendations for regulatory action.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m. and conclude at 4 p.m. on Monday, April 23, 2001.

ADDRESSES: The meeting of the RSAC will be held at the Mayflower, a Renaissance Hotel, in the Colonial Room, 1127 Connecticut Avenue, NW., Washington, DC 20036, (202) 347–2000. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Trish Paolella, or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590, (202) 493–6212/6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the Railroad Safety Advisory Committee (''RSAC''). The meeting is scheduled to begin at 9:30 a.m. and conclude at 4 p.m. on Monday, April 23, 2001. The meeting of the RSAC will be held at the Mayflower Hotel in the Colonial Room, 1127 Connecticut Avenue, NW., Washington, DC 20036,

(202) 347–7000. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual voting representatives and five associate representatives drawn from among 32 organizations representing various rail industry perspectives, two associate representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico and other diverse groups. Staffs of the National Transportation Safety Board and Federal Transit Administration also participate in an advisory capacity.

The RSAC will be briefed on the current status of activities of RSAC working groups and task forces responsible for carrying out tasks the RSAC has accepted involving blue signal protection, cab working conditions, and the definition of reportable ''train accident.''

There will be discussion about Training and Qualification of Safety Critical personnel, a presentation of a proposed task to conform the accident and incident regulations to new Occupational Safety and Health Act requirements and to make necessary revisions to the reporting guide, and a review and discussion of pending rule making petitions and pending tasks.

Informational status briefings concerning the Safety Assurance Compliance Program efforts and the new RSAC website will be presented.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on March 25, 2001.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 01–8436 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 25]

Railroad Safety Advisory Committee (''RSAC''); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) working group activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect the current status of working group activities.

FOR FURTHER INFORMATION CONTACT: Trish Paolella or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on December 17, 1999 (64 FR 70756). The sixteenth full Committee meeting was held December 7, 2000, at the Wyndham Hotel in the Vista Ballroom in Washington, DC.

Since its first meeting in April of 1996, the RSAC has accepted sixteen tasks. Status for each of the tasks is provided below:

Task 96–1—Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. The final rule was published on 1/17/01 (66 FR 4104). An amendment extending the effective date of the final rule until May 31, 2001 was published on February 12, 2001, (66 FR 9905). In addition, the AAR has requested that OMB re-open the Paperwork approval on the rule. *Contact:* Thomas Hermann (202) 493–6036.

Task 96–2—Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213). This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule was September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. A GRMS amendment to the Track Safety Standards was approved by the full RSAC in a mail ballot during August. The GRMS final rule amendment was published 1/10/01 (66 FR 1894) and Roadway Maintenance Machines NPRM was published 1/10/01 (66 FR 1930). On January 31, 2001, FRA published a notice extending the effective date of the GRMS amendment to April 10, 2001 (66 FR 8372). On February 8, 2001, FRA published a notice delaying the effective date until June 9, 2001 in accordance with the Regulatory Review Plan (66 FR 9676). *Contact:* Al MacDowell (202) 493–6236.

Task 96–3—Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182), and was effective on January 2, 1999. *Contact:* Gene Cox (202) 493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group monitored the steam locomotive regulations task. Planned future activities involve the review of other regulations for possible adaptation to the safety needs of tourist and historic railroads. *Contact:* Grady Cothen (202) 493–6302.

Task 96–5—Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). A public hearing was held on February 4, 1999, and recommendations were developed in response to comments received. The final rule was published on November 17, 1999 (64 FR 62828). *Contact:* George Scerbo (202) 493–6349.

Task 96–6—Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. The Working Group met to resolve issues presented in public comments. The RSAC recommended issuance of a final rule with the Working Group modifications. The final rule was published November 8, 1999 (64 FR

60966). *Contact:* John Conklin (202) 493–6318.

Task 96–7—Developing Roadway Maintenance Machine (On-Track Equipment) Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force finalized a proposed rule which was approved by the full RSAC in a mail ballot in August. The NPRM was published 1/10/01 (66 FR 1930). *Contact:* Al MacDowell (202) 493–6236.

Task 96–8—This Planning Task Evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories, and prepared drafts of the task statements for Task 97–1 and 97–2.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1977. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group reviewed results of the research and is drafting performance-based standards for freight and passenger locomotives to present to the RSAC for consideration. An NPRM is being prepared, with the Working Group meeting to review the draft. *Contact:* Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997. A draft sanitation NPRM was circulated to the Working Group on Cab Working Conditions with ballot requested by 11/3/00. The NPRM on sanitation was discussed during the full RSAC meeting on September 14, 2000 and published 1/02/01 (66 FR 136). A public hearing is scheduled April 2, 2001, to discuss the Locomotive Sanitation Standards. A Task Force has assisted in identifying options for strengthening the occupational noise exposure standard, and the Cab Working Group met in October and November and reached tentative agreement on most of the significant issues related to the noise NPRM. The Cab Working Group has scheduled a meeting April 3–5 to discuss Noise Standards. The Cab Working Group has also considered issues related to cab temperature, and is expected to consider additional issues (such as vibration) in the future. *Contact:* Brenda Hattery (202) 493–6326.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. An event Recorder Working Group and Task Force have been established and are actively meeting. A draft proposed rule is being reviewed. *Contact:* Edward Pritchard (202) 493–6247.

Task 97–4 and Task 97–5—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems.

These three tasks were accepted on September 30, 1997, and assigned to a single Working Group. A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, completed a report on the future of PTC systems. The report was accepted as RSAC's Report to the Administrator at the September 8, 1999, meeting. The Standards Task Force, formed to develop PTC standards, is developing draft recommendations for performance-based standards for processor-based signal and train control standards. The NPRM was approved by consensus at the full RSAC meeting held on September 14, 2000. The NPRM will be published in the **Federal Register.** Task forces on Human Factors and the Axiomatic Safety-Critical Assessment Process (risk assessment) continue to work. A meeting of the Working Group is scheduled for March 26, 2001, in Las Vegas to discuss updates on the projects. *Contact:* Grady Cothen (202) 493–6302.

Task 97–7—Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group was formed to address this task and conducted their initial meeting on February 8, 1999. The working group designed a survey form to collect specific data about damages to railroad equipment. The survey started on August 1 and ended January 31, 2001. A statistical analysis, using the survey data, is currently being done to see if a method can be used to calculate property damages. The report is scheduled for completion by the last week of April, 2001. A meeting is scheduled for May 21–23, 2001 to review the report. *Contact:* Robert Finkelstein (202) 493–6280.

Task 00–1—Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end markings devices (Blue Signal Protection). A working group has been formed and held its first meeting on October 16–18, 2000. A second meeting was held from February 27–March 1, 2001. The next meeting is scheduled for March 19–21, 2001. *Contact:* Doug Taylor (202) 493–6255.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on March 25, 2001.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 01–8437 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Union Pacific Railroad Co.

[Docket No. FRA–2001–8962]

Applicant: Union Pacific Railroad Company, Mr. Phil Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the two power-operated switches and 5 controlled signals, on the Mainline and Wye tracks, at the North End of Osawatomie, Kansas, milepost V334 and milepost V335, on the Coffeyville Subdivision, associated with the installation of replacement hand-operated switches.

The reason given for the proposed changes is that the branch track that once served the Wye track has been abandoned, and is now only occasionally used to store cars and turn equipment.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–8434 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–8201; Notice 2]

Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

Subaru of America, Inc. (Subaru) has determined that certain headlamp assemblies manufactured by North American Lighting, Inc., do not comply with requirements contained in Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Subaru has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** (65 FR 66584) on November 6, 2000. Opportunity was afforded for public comment until December 6, 2000. No comments were received.

Paragraph S7.5(g) of FMVSS No. 108 states that ''the lens of each replaceable bulb headlamp shall bear permanent marking in front of each replaceable light source with which it is equipped that states the HB Type.''

Paragraph S7.8.5.3(f)(1) of FMVSS No. 108 states that the lens shall have ''a mark or markings identifying the optical axis of the headlamp visible from the front of the headlamp when installed on the vehicle, to assure proper horizontal and vertical alignment of the aiming screen or optical aiming equipment with the headlamp being aimed.''

Subaru installed approximately 87 headlamp lens assemblies on model year 2000 Subaru Legacy and Outback vehicles from October 5, 1999, through December 5, 1999, which were incorrectly marked. Lenses marked for two-bulb lamp assemblies were placed on one-bulb assemblies, while lenses marked for one-bulb lamp assemblies were placed on two-bulb assemblies.

Subaru supports its application for inconsequential noncompliance with the following statements:

Headlamp aiming performed during the manufacturing process does not rely on lens marking for beam pattern alignment. The result is proper alignment regardless of the mismatch in headlamp assembly lens.

The rate of replacement for headlamp bulbs within the 3/36 warranty period is 0.6 percent. The remaining parts demand for headlamp bulbs is due to collision which results in purchase and installation of new headlamp assemblies not containing the noncompliance.

Installation of replacement headlamp bulbs is outlined in the Service Manual for Subaru Legacy vehicles. The Service Manual procedure for alignment of the headlamp does not rely on the markings found in noncompliance, but rather references the center marking on the bulb.

Incorrect lens assembly installation results in the following light performance variations:

Two-bulb lens on one-bulb assembly: slight decrease in long range visibility, but within FMVSS performance requirements

One-bulb lens on two-bulb assembly: slight broadening of the beam pattern. Vertical alignment specification variation does not exceed 0.57 degrees plus/minus specified aiming.

There is a small possibility that consumers would purchase replacement bulbs for non-dealer installation based on the incorrect marking. However, the incorrect bulb will not install in the headlamp assembly irrespective of the incorrect marking. Additionally, the owner's manual provides the correct specification for replacement bulbs required.

Subaru also submitted data which show the difference in beam patterns of the four possible bulb combinations in the two lamp housings. The data are in the docket.

The petitioner states that the noncompliances will not result in any safety, reliability or serviceability concern for the operator of a subject motor vehicle.

We have reviewed the application and agree with Subaru that the noncompliance is inconsequential to motor vehicle safety. The lamps are fully compliant with the performance requirements of the standard regardless of which lens is used. Further, the bulbs for the one-bulb assembly cannot be used in the two-bulb assembly and vice versa. Therefore, even if a vehicle owner purchases a bulb based on the incorrect information given on the lens, it will not fit.

Regarding the marking of the optical axis for aiming, because headlamp aiming during the vehicle manufacturing process does not rely on this mark, the lamps will be correctly aimed when the vehicle is delivered for sale. Further, the service manual procedure for aim alignment does not rely on this mark. It references the center of the bulb. If the lamps are vertically aimed by consumers, Subaru states that there can be a 0.57 degree error, given the unintended vertical displacement of the lens' optical axis mark. If a person attempts to aim a subject headlamp using the incorrectly placed mark, the lamp will be aimed upward or downward by that angular amount, depending on which lamp and which lens is installed. Because field aiming is more often done using the Society of Automotive Engineers (SAE) recommended aiming tolerance of ± 4 inches at 25 feet (about 0.75 degree), the misaim caused by the incorrect location of the aiming mark on the lens should be within the recommended field aiming tolerance. As a result, there should be no consequence to safety.

In consideration of the foregoing, we have decided that the applicant has met its burden of persuasion that the noncompliance described above is inconsequential to motor vehicle safety. Therefore, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118 and 30119 and from remedying the noncompliance as required by 49 U.S.C. 30120.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 3, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–8512 Filed 4–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–468 (Sub–No. 4X)]

Paducah & Louisville Railway, Inc.—Abandonment Exemption—in Hopkins County, KY

Paducah & Louisville Railway, Inc. (P&L) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a line of railroad between milepost 154.5, near St. Charles, and milepost 159.6, near Ilsley, a distance of approximately 5.1 miles in Hopkins County, KY (line). The line traverses United States Postal Service Zip Codes 42442 and 42453.

P&L has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over another parallel line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 8, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 16, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 26, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: William A. Mullins, Esq., Troutman Sanders LLP, 401 9th Street, NW., Suite 1000, Washington, DC 20004. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

P&L has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 11, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), P&L shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by P&L's filing of a notice of consummation by April 6, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *http://www.stb.dot.gov.*

Decided: March 29, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–8400 Filed 4–5–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—America Alliance Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notce.

SUMMARY: This is Supplement No. 14 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000, at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6779.

SUPPLEMENTARY INFORMATION: American Alliance Insurance Company, an Ohio corporation, has formally changed its name to Great American Alliance Insurance Company, effective August 17, 2000. The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40870, June 30, 2000.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under sections 9304 to 9308 of Title 31 of the United States Code, to Great American Alliance Insurance Company, Cincinnati, Ohio. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $1,008,000 established for the Company as of June 30, 2000, remains unchanged until June 30, 2001.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570,

2000 Revision, at page 40884 to reflect this change.

This Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: March 28, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Services.

[FR Doc. 01–8544 Filed 4–5–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—American National Fire Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is supplement No. 13 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000, at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6779.

SUPPLEMENTARY INFORMATION: American National Fire Insurance Company, a New York corporation, has formally changed its name to Great American Insurance Company of New York, effective November 11, 2000. The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40872, June 30, 2000.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under sections 9304 to 9308 of Title 31 of the United States Code, to Great American Insurance Company of New York, New York, New York. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $2,777,000 established for the Company as of June 30, 2000, remains unchanged until June 30, 2001.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the treasury Circular 570, 2000 Revision, at page 40884 to reflect this change.

This Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: March 28, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–8543 Filed 4–5–01; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register

Vol. 66, No. 67

Friday, April 6, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–018–1]

Change in Disease Status of Great Britain and Northern Ireland Because of Foot-and-Mouth Disease

Correction

In rule document 01–6403 beginning on page 14825 in the issue of Wednesday, March 14, 2001, make the following corrections:

1. On page 14825, in the first column, under the heading **SUMMARY**, in the 14th line, ''into '' should read ''and ''.

2. On the same page, in the second column, under the heading **Background**, in the second paragraph, in the 9th line ''February 12, 2001'' should read '' February 21, 2001 ''.

3. On the same page, in the third column, in the second paragraph, in the 21st line ''and '' should read ''or ''.

4. On page 14826, in the first column, in the first paragraph, in the second line, ''the MAFF '' should read ''that MAFF ''.

[FR Doc. C1–6403 Filed 4–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–120–01–7122PB–9021:01–0129]

Proposed Natural Gas Pipeline; Douglas County, OR

Correction

In notice document 01–7808 beginning on page 17194 in the issue of Thursday, March 29, 2001, make the following corrections:

1. On page 17194, in the third column, in the first full paragraph, in the 6th line, ''100 psig'' should read ''1000 psig''.

2. On page 17194, in the third column, in the first full paragraph, in the 8th line, ''15%'' should read ''150%''.

[FR Doc. C1–7808 Filed 4–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8929]

RIN 1545–AQ30

Accounting for Long–Term Contracts

Correction

In rule document 01–6 beginning on page 2219 in the issue of Thursday, January 11, 2001 make the following correction:

§1.460–1 [Corrected]

On page 2228, in the third column, in §1.460–1(j), in *Example 2*, in the 29th line down, after ''10,000,000'' add ''÷''.

[FR Doc. C1–6 Filed 4–5–01; 8:45 am]

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Federal Register

Friday,
April 6, 2001

Part II

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years (FYs) 2001–2003 for Community-based Research Projects on Technology for Independence and Resource Center for Community-based Disability and Rehabilitation Research Projects on Technology for Independence.

SUMMARY: We propose funding priorities for Community-based Research Projects on Technology for Independence and Resource Center for Community-based Disability and Rehabilitation Research Projects on Technology for Independence under the National Institute on Disability and Rehabilitation Research (NIDRR) for FYs 2001–2003. We take this action to focus research attention on areas of national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities. This notice contains proposed priorities under the Disability and Rehabilitation Research Projects and Centers Program.

DATES: We must receive your comments on or before May 7, 2001.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3414, Switzer Building, Washington, DC 20202–2645. Comments may also be sent through the Internet: donna_nangle@ed.gov

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these proposed priorities.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these priorities in Room 3414, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

National Education Goals

These proposed priorities will address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The authority for the program to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 762(g) and 764(b)(4)). Regulations governing this program are found in 34 CFR part 350.

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, we invite applications through a notice published in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational.

The proposed priorities refer to NIDRR's Long Range Plan (the Plan). The Plan can be accessed on the World Wide Web at: (*http://www.ed.gov/offices/OSERS/NIDRR/#LRP*).

Disability and Rehabilitation Research Projects and Centers Program

The purpose of the DRRP and Centers program is to plan and conduct research, demonstration projects, training, and related activities to:

(a) Develop methods, procedures, and rehabilitation technology that maximizes the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities; and

(b) Improve the effectiveness of services authorized under the Act.

Priorities for Community-based Rehabilitation Projects on Technology for Independence

Background

Issues in Involvement of Community-based Organizations of People With Disabilities in Promoting Technology for Independence.

As stated in the Plan, ''It is the mission of NIDRR to generate, disseminate, and promote the full use of new knowledge that will improve substantially the options for disabled individuals to perform regular activities in the community, and the capacity of society to provide full opportunities and appropriate supports for its disabled citizens.'' Assistive Technology (AT) and environmental access play key roles in this mission. The Plan provides detailed definitions, examples, and research objectives for AT and environmental access, including universal design.

According to a National Center for Health Statistics report titled ''Trends and Differential Use of Assistive Technology Devices: United States, 1994,'' approximately 17 million people used at least one AT device. AT and related environmental access approaches (environmental access approaches include the concept of universal design) help people with disabilities function on a more equal basis in society. For more information on the contributions of AT and access solutions, see the examples and links to relevant web sites provided by the United States Architectural and Transportation Barriers Compliance Board, also known as the Access Board (*http://www.access-board.gov/*), and the Doorway to Research on Technology for Access and Function at the National Center for the Dissemination of Disability Research (NCDDR) (*http://www.ncddr.org/rpp/techaf/index.html*).

The new paradigm of disability embodied in the Plan requires analysis of the extent to which AT and

environmental access helps individuals with disabilities in attaining full participation in society. Much of NIDRR's work reflects the components of the Independent Living (IL) philosophy: consumer control, self-help, advocacy, peer relationships and peer role models, and equal access to society, programs, and activities. IL and achieving community integration to the maximum extent possible are issues at the crux of NIDRR's mission. Furthermore, NIDRR is committed to the creation of a theoretical framework with measurable outcomes that is based upon the experiences of individuals with disabilities.

To improve ''end-user'' participation in addressing AT problems, and related environmental access solutions, NIDRR will support projects that involve community-based organizations in researching AT related problems and needs. Two types of projects will be supported. The first type includes research projects that will investigate the use of, and need for, AT devices and services at the community level. The second type of project is a community-based research ''Resource Center'' that will develop, evaluate, and disseminate improved research and training methods appropriate to AT and environmental access involvement of community-based disability organizations. The Resource Center will also provide AT and environmental access technical assistance to community-based organizations and will foster cooperation among the funded projects. These community-based research projects will broaden the inclusion of persons with disabilities in developing practical and affordable solutions to AT and environmental access problems and needs.

In recent years, a number of NIDRR grant competitions have led to research projects and activities that aim at improving access to AT and reducing environmental barriers. For many years, NIDRR funded grants to States under the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (Tech Act). In addition to research programs under Title II of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796) (Rehab Act), NIDRR now has responsibility for AT programs under the Assistive Technology Act of 1998 (AT Act), which replaced the Tech Act. A June 5, 2000 notice (65 FR 35768–35774) for a new Alternative Financing Program under Title III of the AT Act identified numerous issues affecting access of people with disabilities to AT. An April 5, 1999 notice (64 FR 16531) under NIDRR's Rehabilitation Engineering Research Center (RERC) program discussed the importance of improving access to the environment through universal design. For information on ongoing and completed NIDRR-supported activities in these areas, contact the National Rehabilitation Information Center at *http://www.naric.com/* or telephone 1–800–346–2742.

This year, NIDRR anticipates awarding a number of projects related to AT and environmental access. For updates on the status of announcements please see the Education Department Forecast of Funding Opportunities under Department of Education Discretionary Grant Programs for FY 2001 at *http://ocfo.ed.gov/grntinfo/forecast/forecast.htm*.

According to the Rehab Act, the purpose of IL programs is ''to promote a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual empowerment, equal access, and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society.'' The concepts in this philosophy of consumer control, peer support, and self-help place these Title VII independent living centers (CILs) within a broader world-wide grouping known as ''community-based'' organizations.

The term ''community-based'' organization has varying meanings in disability and rehabilitation programs and in social research. For the purpose of these two priorities, a ''community-based disability organization'' is a consumer-directed community organization such as a CIL. Consumer control is the key. Some community rehabilitation service organizations, for example psychosocial rehabilitation programs, also value consumer direction. Other disability-related organizations are located in community settings, but do not have significant consumer direction. Section 7 of the Rehab Act, for example, identifies community rehabilitation programs as providers of AT devices and services for persons with disabilities, but such organizations may or may not be consumer directed. Organizations with consumer direction, including CILs and other organizations such as protection and advocacy (P&A) agencies, are in a unique position to help identify and study the specific needs for AT and environmental access of individuals from diverse populations and therefore are the focus of this research effort.

A number of private foundations and international agencies have identified the value of investing in ''grassroots'', consumer-directed organizations, particularly in public health and economic development. These organizations aim at reducing poverty or specific diseases such as HIV/AIDS, or they provide assistance to special needs groups such as people in troubled urban and rural areas (see the World Wide Web sites or publications of the Pew Fund for Health and Human Services at *http://www.pewtrusts.com/*, the World Health Organization at *http://www.who.int/*, and the Robert Wood Johnson Foundation at *http://www.rwjf.org/index.jsp* for examples).

Community-based research encompasses a broad set of research activities with differing, and sometimes competing, concepts and methods. Sociology, anthropology, community psychology and public health, for example, use applied community research methods. For the purpose of these two proposed priorities, community-based research is intensive, systematic study directed toward new or full scientific knowledge or understanding of AT or environmental access problems. In addition, the research must be completed in the community under the direction of community-based disability organizations (Sclove, R.E, Scammell, M.L. & Holland, B. (1998). Community-based Research in the U.S. Amherst, MA: The Loka Institute *http://www.loka.org/*).

Community-based disability and rehabilitation research puts primary emphasis on assisting persons with disabilities by producing and disseminating knowledge and technology and promoting and advancing the rehabilitation and integration process at the community level. Community-based disability and rehabilitation research, according to these two priorities, applies to the use of, or need for, AT devices and services by persons with disabilities in the community, and related issues of environmental access. Such research should be performed by qualified researchers in cooperation with community-based disability organizations. NIDRR supports the notion that persons with disabilities provide unique perspectives about living with disability and must be included in community-based research projects to the greatest possible extent. Their experience with, and interest in, finding practical solutions to problems encountered in home, school, place of work, and community make them informed participants, if not particularly

qualified researchers. To ensure that technology-related problems relevant to persons with disabilities are studied, contributions from such persons are encouraged. In addition, university-based research on disability needs to be complemented by community-based research to provide the community with useful and immediate tools, technologies, and knowledge for overcoming barriers to access and participation in economy and society.

Community-based rehabilitation research is particularly suited for persons with disabilities. According to the University of Washington School of Public Health and Community Medicine's Principles of Community-Based Research, a research partnership between a university and community-based organizations should accomplish the following:

- Community partners should be involved at the earliest stages of the project, helping to define research objectives and having input into how the project will be organized.
- Community partners should have real influence on project direction—that is, enough leverage to ensure that the original goals, mission, and methods of the project are adhered to.
- Research processes and outcomes should benefit the community. Community members should be hired and trained whenever possible and appropriate, and the research should help build and enhance community assets;
- Community members should be part of the analysis and interpretation of data and should have input into how the results are distributed. This does not imply censorship of data or of publication, but rather the opportunity to make clear the community's views about the interpretation prior to final publication;
- Productive partnerships between researchers and community members should be encouraged to last beyond the life of the project. This will make it more likely that research findings will be incorporated into ongoing community programs and therefore provide the greatest possible benefit to the community from research; and
- Community members should be empowered to initiate their own research projects that address needs they identify themselves.

Proposed Priority 1: Community-based Disability and Rehabilitation Research Projects on Technology for Independence

The Plan identifies disability in terms of the relationship between the individual and the natural, built, cultural, and social environments (63 FR 57189–57219). The Plan focuses on both individual and systemic factors that have an impact on the ability of people to function. The elements of the Plan include employment outcomes, health and function, technology for access and function, and IL and community integration. To attain the goals in these areas, the Plan also includes capacity building for research and training, and to ensure knowledge dissemination and utilization. Each area of the Plan includes objectives at both the individual and system levels. For example, the technology for access and function area of the Plan includes research objectives to develop AT that supports people with disabilities to function and live independently and obtain better employment outcomes, and research objectives to promote improved access to the built environment and concepts of universal design. It is clear that the challenges and opportunities for AT and improved environmental access reflect all of the priority areas of the Plan.

Proposed Priority 1

We proposes to establish research projects to involve community-based disability organizations in AT and environmental access research leading to practical and affordable solutions to identified problems and needs, and building research capacity at the community level and in community-based organizations serving persons with disabilities.

In carrying out these purposes, a project must:

(a) From the examples of research objectives below, conduct a significant and substantial research program on the involvement of community-based disability organizations in promoting technology for access and function that will contribute to the advancement of knowledge in accordance with the Plan by:

- Investigating and developing research questions, methodologies, and recommendations for use by other research entities in solving technology-related, engineering, psychosocial, economic and other problems at the individual and systems levels, in the United States (U.S.); and
- Designing and testing models for partnership of community-based disability organizations in research, participant observation studies and other qualitative and quantitative research approaches to using technology in community-based settings; and

(b) Disseminate findings from community-based research to persons with disabilities, their representatives, disability and rehabilitation service providers, researchers, planners, and policy makers.

In carrying out these purposes, the project must:

- Coordinate with appropriate federally funded projects. Coordination responsibilities will be identified through consultation with the NIDRR project officer and may include outreach to specific NIDRR DRRPs, RERCs, Rehabilitation Research and Training Centers (RRTCs), Disability Business Technical Assistance Centers (DBTACs) and AT Projects; Office of Special Education technology projects and Parent Training and Information Centers; and Rehabilitation Services Administration training, special demonstration, and IL projects;
- Involve individuals with disabilities in key decision-making;
- Participate in a formative review session to be convened by the Resource Center within six months of award, and cooperate with the Resource Center's capacity-building and evaluation activities; and
- Participate in a state-of-the-science conference in the third year of the grant.

Proposed Priority 2: Resource Center for Community-based Disability and Rehabilitation Research Projects on Technology for Independence

There is a need for capacity-building on conceptual and methodological approaches to research on the involvement of community-based organizations of people with disabilities in promoting technology for independence. There is need for training, technical assistance, and dissemination efforts to guide ongoing efforts. Advice and strategies are needed in specific areas including, but not limited to, research designs and methodologies, case studies, focus group research, AT and environmental assessment, small sample surveys, participant observation, ethnography, and participatory action research. There is a need to develop ''how-to-do'' materials on disability-related AT and environmental access community-based research, reference resources, web-based access to materials, and other means of communicating knowledge about community-based rehabilitation research in the U.S.

Proposed Priority 2

We propose to establish a resource center to assist Disability and Rehabilitation Research Projects on Technology for Independence and other related NIDRR activities under the Plan with capacity-building for improving the involvement of community-based

organizations of people with disabilities in promoting technology for independence.

In carrying out these purposes, the project must:

(a) Establish and conduct a significant and substantial resource program on capacity-building in research, training, and TA on the involvement of community-based disability organizations in promoting technology for access and function that will contribute to the advancement of knowledge in accordance with the Plan.

(b) Disseminate findings from the Resource Center's program on community-based research to DRRPs on Technology for Independence and other related NIDRR-funded activities under the Plan.

In addition to the activities proposed by the applicant to carry out these purposes, the Resource Center must:

- Involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing the research, training, and dissemination activities, and in evaluating the Center;
- Coordinate with appropriate federally funded projects. Coordination responsibilities will be identified through consultation with the NIDRR project officer and may include outreach to specific NIDRR DRRPs, RERCs, RRTCs, DBTACs and AT Projects; Office of Special Education technology projects and Parent Training and Information Centers; and Rehabilitation Services Administration training, special demonstration, and IL projects;
- Convene a formative review session within six months of project award with the DRRPs on Technology for Independence to assist these community-based rehabilitation researchers in the finalization of their research plans, and to help them with the commencement of their research projects; and
- Conduct a state-of-the-science conference, including the DRRPs on Technology for Independence, in the third year of the grant and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant.

Applicable Program Regulations: 34 CFR part 350.

Program Authority: 29 U.S.C. 762(g) and 764(b)(4).

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Note: The official version of this document is published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

(Catalog of Federal Domestic Assistance Number: 84.133A, Disability and Rehabilitation Research Project and Centers Program)

Dated: April 2, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–8462 Filed 4–5–01; 8:45 am]

BILLING CODE 4000–01–D

Federal Register

Friday,
April 6, 2001

Part III

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed funding priorities for fiscal years (FYs) 2001–2003 for two Disability and Rehabilitation Research Projects.

SUMMARY: We propose funding priorities for two Disability and Rehabilitation Research Projects and Centers Program (DRRP) one on Assistive Technology Outcomes and Impacts and the other on Assistive Technology Research Projects for Individuals with Cognitive Disabilities under the National Institute on Disability and Rehabilitation Research (NIDRR) for FY 2001–2003. We may use these priorities for competitions in FY 2001 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before May 7, 2001.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3414, Switzer Building, Washington, DC 20202–2645. Comments may also be sent through the Internet: donna_nangle@ed.gov

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These proposed priorities will address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The authority for the program to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764(b)(4)). Regulations governing this program are found in 34 CFR part 350.

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

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The proposed priorities refer to NIDRR's Long-Range Plan that can be accessed on the World Wide Web at: (*http://www.ed.gov/offices/OSERS/NIDRR/#LRP*).

Disability and Rehabilitation Research Projects and Centers Program

The purpose of the program is to plan and conduct research, demonstration projects, training, and related activities to:

(a) Develop methods, procedures, and rehabilitation technology that maximizes the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities; and

(b) Improve the effectiveness of services authorized under the Act.

Proposed Priority 1: Assistive Technology Outcomes and Impacts

Background

One of the greatest challenges facing health care systems, social services providers and policymakers is to ensure that scarce resources are used efficiently. To a large extent, this challenge explains the growing interest in outcomes research and evidence-based medicine. Particular interest in outcomes of assistive technology (AT) is related to the amount of dollars spent on developing and manufacturing AT, AT service delivery and to the need to improve the functional independence and well-being of persons with disabilities of all ages. Yet, assessment of the impact of technology on function and other productivity and quality of life outcomes lags behind outcomes measurement in other areas of rehabilitation.

There are several factors that promote concern about the paucity of outcomes research in AT including the: (a) Ability to demonstrate efficacy of new devices; (b) need to examine effectiveness of devices over time; and (c) need to chart future research and development to improve devices (Fuhrer, M. J., ''Assistive technology outcomes research: challenges met and yet unmet,'' *American Journal of Physical Medicine and Rehabilitation*, 2001, In press). Outcomes research and analysis is also needed to guide decisionmaking across multiple levels of policy and program development, including: (a) Decisions on a societal level regarding types of public programs and services to fund; (b) decisions on a programmatic level regarding what services to continue, enhance, modify or eliminate; (c) decisions on an individual level regarding AT recommendations and interventions; and (d) decisions on a research level regarding the comparative effectiveness of individual devices and the impact on future designs (Smith, R., ''Measuring the outcomes of assistive technology: challenge and innovation'', *Assistive Technology*, Vol. 8, No. 2, pgs. 71–81, 1996).

In the face of a growing interest in outcomes, the inconsistent use of

terminology contributes to the confusion that exists in the application of a generally accepted outcomes approach. In the field of rehabilitation, outcomes measurement has focused on creating outcomes management systems and measuring and communicating outcomes. Rehabilitation has led the health care field in its emphasis on changes in function as an outcomes measure. Still, even in rehabilitation, outcomes measurement systems have typically focused on process variables, *i.e.*, the outputs of products and services, and not on gains to the individual or society in either the short or long term. Wilkerson posits that this emphasis on process will change because of three factors: (a) The pressure to cut costs; (b) growth of consumerism leading to increased input from users and increased focus on the needs of the end user; and (c) concerns about quality in relation to costs (Wilkerson, D., ''Outcomes and accreditation—The paradigm is shifting toward outcome,'' *Rehab Management*, August/September, pgs. 112–115, 1997).

Outcomes research is defined in different ways across rehabilitation and health services research as well as in the social services field. The Foundation for Health Services Research (Foundation for Health Services Research, *Health Outcomes Research: A Primer*, Washington, DC, 1994) characterized outcomes research as research focused on the ''end results of medical care—the effect of the health care process on the health and well-being of patients and populations.'' The Institute of Medicine (IOM) (Feasley, J.C., ed., *Health Outcomes for Older People: Questions for the Coming Decade*, Washington, DC: National Academy Press, 1996) expanded this definition to include ''the clinical signs and symptoms, well-being or mental and emotional functioning; physical, cognitive, and social functioning; satisfaction with care; health-related quality of life, and costs and appropriate use of resources.'' Outcomes research has also been defined as research designed to discover the sustained impact of rehabilitative strategies and treatments in the everyday lives of persons with disabilities. ''Outcomes research attempts to build a bridge between interventions and long-term improvements in the lives of persons served as they reenter the community'' (Johnston, M., et al., ''Outcomes research in medical rehabilitation-foundations from the past and directions for the future,'' *Assessing Medical Rehabilitation Practices: The Promise of Outcomes Research*, Marcus J. Fuhrer, ed., pgs. 1–42, 1997). Regardless of how it is defined, outcomes research is part of the larger framework of program evaluation (Fuhrer, op cit., 1997), and includes both outcomes analysis and outcomes measurement also known as performance measurement (Jennings, B.M. and Staggers, N., The language of outcomes, *Journal of Rehabilitation Outcomes Measurement*, Vol. 3, No.1, pgs. 59–64, 1999).

Rehabilitation outcomes are changes produced by rehabilitation services in the lives of service recipients and their environments. Outcome indicators are measures of the amount and frequency of those occurrences, and include service quality. Within this perspective, some analysts use the word ''impacts'' to distinguish between longterm outcomes or end results that occur on a societal versus an individual level. Still others use the term ''impact'' more strictly to refer to estimates of the extent to which the program actually ''caused'' particular outcomes (Hatry, H. et al., *Customer Surveys for Agency Managers: What Managers Need to Know*, Washington, DC: Urban Institute, 1998). Deconstructing these various definitions and types of outcomes and impacts requires recognition of complexity on many levels.

Although AT has grown as a discipline and as an industry over the past two decades, there has not been a corresponding maturity in developing or assessing the outcomes or impacts of AT upon individuals with disabilities. AT devices and services outcomes also may be difficult to define because of the ways AT is used. For example, AT is used to increase participation in the environment, enhance normative social roles, promote and sustain employment, and facilitate activities of daily living. Some devices, such as computers, increase access to information and support life long learning. AT devices vary significantly from highly complex and sophisticated computer-operated systems to low tech approaches that can be easily purchased or built. Complicating the issue even further are the individual characteristics of the AT user and the varied environments in which users live, work, and learn.

Approximately one-third of AT devices will be abandoned by the user (Phillips, B. and Zhao, H. ''Predictors of assistive technology abandonment'', *Assistive Technology*, Vol. 5, pgs. 36–45, 1995). There are many reasons why individuals with disabilities choose to accept or reject AT devices. Since public funds provide a major source for purchasing AT devices and services, useful and accurate measures of outcomes and impacts is critical for accountability and to avoid wasteful outcomes. Is abandonment a negative or could it be a positive outcome? Abandonment has been viewed as the end result of fragmented service provision, poor assessment techniques, lack of consumer choice in device selection, inattention to device use across environments, inadequate training, costly repairs, need to upgrade and obsolete or inappropriate technology. However, abandonment may be a natural phenomenon related to improved physical or cognitive function, the result of a technology upgrade or because different technology is a better fit between the end-user and the environment.

There are other reasons to account for the lack of momentum in measurement development and outcomes and impact research on AT. Most of the endorsements of a particular device or service are based on anecdotal information (Fuhrer, 1999) rather than data generated from research. Frank DeRuyter (''Evaluating outcomes in assistive technology: do we understand the commitment,'' *Assistive Technology*, Vol. 7, No. 1, pgs. 3–16, 1995), observed that historically, AT was considered a remedy to impairment or dysfunction, and the urgency of consumer need was of greater importance than relying upon data to document the efficacy of a particular device. In addition, quality was perceived as too abstract and difficult to measure and define. Vendors and practitioners may feel threatened by potential findings and accountability demands, which may also have contributed to the lack of outcomes studies (DeRuyter, op. cit, 1995).

While the AT arena is complex and broad, several outcomes studies have focused on a discrete segment of the entire system. Smith says that there are essentially two domains of outcome measurement: the performance of an individual using assistive technology and the cost of achieving the level of performance (Smith, R.O., ''Accountability in assistive technology interventions: measuring outcomes,'' *Volume I—RESNA Resource Guide of Assistive Technology Outcomes: Measurement Tools*, pgs. 15–43, 1998). Minkel proposed that the primary measure to determine the value of the assistive technology is the basic formula of outcomes divided by cost (Minkel, J., ''Assistive technology and outcomes measurement: Where do we begin?'' *Technology and Disability*, July, pgs. 285–288, 1996). There are others within the AT community who operate under the assumption that improvements and innovation in technology will

''naturally'' lead to successful use and implementation, and therefore do not need to be evaluated. From this perspective, technological solutions have been viewed as a panacea without the benefit of data to support prevailing assumptions (De Ruyter, F., ''Concepts and rationale for accountability in assistive technology,'' *Volume I—RESNA Resource Guide of Assistive Technology Outcomes: Measurement Tools*, pgs. 2–15, 1998).

At a minimum, the process of evaluating AT outcomes must measure and establish a baseline of what works, identify how well and for whom it works, and at what level of economy and efficiency. This process will necessitate taking information from several performance monitoring dimensions (De Ruyter, op. cit., 1998). In approaching the challenges of AT outcomes measurement, it is important to identify if the outcomes relate to the AT product or service, the user, or to the environment in which the technology is being used. While not standardized or widely endorsed, a variety of measurement techniques and instruments are currently utilized. These measurement tools tend to be specific to a given practice area or limited to a functional domain, (*Volume I: RESNA—Resource Guide for Assistive Technology Outcomes: Measurement Tools*, 1998).

To proceed with assessing AT outcomes and impacts, the following questions need to be addressed. First, what are the key gaps and weaknesses in our knowledge of AT use and its impacts? Are the key research questions related to a particular intervention at a particular point in time? How do device modifications and upgrades change the intervention? How do characteristics of the population including severity of impairment, duration of disability, presence of co-morbidities, aging and other sociodemographic factors influence technology utilization and bias outcomes study? What is the role of environmental, economic, awareness and training barriers in AT use and outcomes? These different levels of outcomes can look at impacts and effects of technology at one point in time, more typically a clinical or functional outcome, or can be examined in terms of long-term impacts on individual quality of life, productivity and social participation. As one researcher expressed it, in addition to longitudinal studies, ''the research agenda must consider lifelong use of assistive technology, documenting effectiveness of that technology as an intervention, identifying stages for reconsideration of its use, and defining environmental and social considerations'' (Turk, M. A., ''Early development-related condition,'' *Assessing Medical Rehabilitation Practices—The Promise of Outcomes Research*, Marcus J. Fuhrer, ed., pgs. 367–392, 1997).

Innovations in AT will continue to evolve and many AT users, as they have in the recent past, will experience increases in independence, function, and general well being. Concurrently, the gap between the promise of technology and the ability of individuals and funding sources to afford them will continue to widen. This will result in a greater need for knowledge about the cost-effectiveness and efficiency of particular devices and services (Fuhrer, M.J., ''Assistive technology outcomes research: challenges met and yet unmet,'' *American Journal of Physical Medicine and Rehabilitation*, 2001, In press).

Proposed Priority 1: Assistive Technology Outcomes and Impacts

We propose to establish multiple research projects on assistive technology (AT) outcomes and impacts to determine the efficacy and utility of AT interventions and the implications for abandonment of AT devices. In carrying out these purposes, the projects must:

(a) Assess the current status of AT outcomes and impacts measurement systems and approaches, identifying measurement methodologies, characteristics of key instruments including utility to AT field, and critical gaps in measurement;

(b) Based upon the findings of paragraph (a), evaluate efficacy of existing measurement instruments or develop and evaluate new outcomes and impacts measurement methodologies to meet the needs of AT stakeholders; and

(c) Investigate and analyze the complexity of factors contributing to the abandonment of AT, including age-related changes, and identify how these factors are incorporated into outcomes and impacts measurement instruments.

In addition to activities proposed by the applicants to carry out these purposes, each project must:

- Develop and disseminate to AT stakeholders and other interested and relevant audiences, as determined by NIDRR, materials on AT outcomes studies and impacts analyses and, periodic updates on the project's milestones, products and results; and
- Collaborate with relevant NIDRR-sponsored projects, such as the AT/IT Consumer Survey (University of Michigan), the RESNA Technical Assistance projects, and the RRTC on Medical Rehabilitation Outcomes, as identified through consultation with the NIDRR Project Officer.

Proposed Priority 2: Assistive Technology Research Projects for Individuals With Cognitive Disabilities

Background

Technology and assistive devices have commonly been used to assist persons with mobility, communication and sensory difficulties. Because of the positive impact that technology has played in the lives of these individuals, there is now a strong push toward the development of such devices for people with cognitive disabilities. The Assistive Technology Act of 1998 defines an assistive technology device to be any item, piece of equipment or product system whether acquired commercially off the shelf, modified or customized that is used to increase, maintain or improve functional capabilities of individuals with disabilities. Rapid advances in technology provide great potential for development of new devices or adaptation of available devices to assist individuals with cognitive disabilities to develop and maintain skills.

Technology professionals, such as computer scientists and rehabilitation engineers, have limited experience applying assistive technology solutions to users with cognitive disabilities. Nor do they yet understand the mapping between specific needs and equally specific design solutions. Most people with cognitive disabilities have a range of learning and processing capabilities. Wide variations in cognitive functioning make it difficult to develop generic solutions appropriate for all individuals. Functional capabilities associated with these disabilities may include wide ranges of ability in memory, reasoning, and language comprehension. Cognitive functioning also includes perception, problem-solving, conceptualizing, reading, thinking and sequencing (Electronic and Information Technology Access Advisory Committee, ''EITAAC Report, May 13, 1999,'' A Report to the Architectural and Transportation Barriers Compliance Board). Common strategies to improve functioning in activities of daily living across various cognitive disabilities need to be identified, as do, issues regarding information processing that may be unique to each of these groups.

Persons with cognitive disabilities often have difficulty in carrying out Instrumental Activities of Daily Living (IADLs) because of problems with time management and information retrieval. Researchers are experimenting with the use of electronic personal computers to

compensate for memory problems. Other researchers are examining methods of matching individual cognitive problems with compensatory strategies provided by a variety of commercially available portable electronic devices. In traumatic brain injury treatment, researchers are investigating the use of virtual reality technology to test visual acuity and reaction times to stimulus. Research is also being conducted on the use of text-based messages to enhance communication.

Technology is often viewed as facilitating employment of persons with disabilities. However, inaccessible technology can be a barrier to all persons with disabilities. This is particularly true for persons with cognitive impairments who may have difficulty using telephones, computers, and other equipment that are staples of most work environments. Developers and manufacturers of assistive technology often do not consider issues of cognitive access and flexibility when designing their products.

While the congruence between the promise of assistive technology and the needs of many people attempting to achieve community integration is obvious, little has been written about the manner in which technology affects community adaptation or the service needs of individuals with cognitive disabilities in community settings. While specific manifestations of assistive technology have identifiable benefits, the central question needs to be empirically addressed—how can assistive technologies contribute to community integration and in what manner can the linkage be facilitated? The state of knowledge about the use of assistive technology for persons with cognitive disabilities, as well as the outcomes of that use or lack of use and the cost-effectiveness in achieving community integration is limited. There are only a few large assessments of the technology needs of persons with cognitive disabilities and results are ambiguous because of difficulties in identifying persons with low incidence conditions and specific technology needs within the study population (Lakin, C. et al., NIDRR Long-Range Plan Commissioned Paper on Community Integration, 1996).

In order to take advantage of any potential that technological advances may have, it is important to define what makes a device easier or more difficult for a person with a cognitive disability to use. Products that are simpler and require fewer cognitive skills are easier to operate for everyone (Vanderheiden, G., 1992, ''A brief look at technology and mental retardation in the 21st century,'' in Mental Retardation in the Year 2000, Louis Rowitz, ed., New York: Springer-Verlag). ''Design guidelines'' must then be communicated to the manufacturers of consumer products and business information systems. Instructions for training on the use and maintenance of the device also need to be part of this design process. It is important for designers to be aware of the real world tasks with which the user has difficulty; hence, research needs to include persons with cognitive disabilities at the front end of all technology development. End product affordability is important not only in meeting consumer needs, but also in creating the market demand that will encourage manufacturers to enter production.

The NIDRR Long-Range Plan discusses three objectives in developing technology to meet the needs of people with limitations in cognitive functioning: To assure that new technologies are accessible and do not exacerbate exclusion from mainstream activities; to assist people with cognitive limitations in the performance of daily activities; and to develop technologies that can enhance or restore some cognitive functions (NIDRR, Long-Range Plan: 1999–2003, pg. 57).

The University of Colorado recently accepted a gift of $250 million. The endowment will fund advanced research and development of innovative technologies to enhance the lives of people with cognitive disabilities. The endowment, to be paid over five years, will be used to establish the Coleman Institute for Cognitive Disabilities located at the University of Colorado. Applicants for this project should provide information on proposed coordination with the Coleman Institute.

Proposed Priority 2: Assistive Technology Research Projects for Individuals With Cognitive Disabilities

We propose to establish multiple research projects on technology access for persons with cognitive disabilities leading to practical and affordable solutions to identified community and workplace needs of this population. The projects must:

(a) Conduct an assessment of state-of-the-art technology applications for persons with cognitive disabilities;

(b) Based on the assessment results of paragraph (a), identify technology gaps and needs for persons with cognitive disabilities and make recommendations for new technology and modifications to existing technology; (c) Identify features that may be incorporated into existing, commercially available technology that could benefit persons with cognitive disabilities; and

(d) Develop and explore strategies for strengthening partnerships with developers and manufacturers of devices in order to facilitate the development of new technologies and applications to incorporate cognitive access.

In addition to the activities proposed by the applicants to carry out these purposes, the projects must:

- Coordinate with the appropriate Federal agencies and privately-funded projects, such as the University of Colorado's Coleman Institute for Cognitive Disabilities, that are relevant to the applicants proposed activities as identified through consultation with the NIDRR project officer; and
- Involve individuals with cognitive disabilities in all aspects of the project.

Applicable program regulations: 34 CFR part 350.

Program Authority: 29 U.S.C. 762(g) and 764(b)(4).

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(Catalog of Federal Domestic Assistance Number: 84.133A, Disability and Rehabilitation Research Project and Centers Program)

Dated: April 2, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

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Part IV

Department of Health and Human Services

Administration for Children and Families

Fiscal Year 2001 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2001–06]

Fiscal Year 2001 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications

AGENCY: Office of Community Services (OCS), Administration for Children and Families (ACF) DHHS.

ACTION: Announcement of the availability of funds and request for applications under the Office of Community Services' Family Violence Prevention and Services Discretionary Funds Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces its Family Violence Prevention and Services discretionary funds program for fiscal year (FY) 2001. Funding for grants under this announcement is authorized by the Family Violence Prevention and Services Act, Public Law 102–295, as amended, governing discretionary programs for family violence prevention and services. Applicants should note that the award of grants under this program announcement is subject to the availability of funds. This announcement contains all forms and instructions for submitting an application.

DATES: The closing date for submission of applications is May 21, 2001. Applications postmarked after the closing date will be classified as late. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including the addresses where applications must be received, are found in Part IV of this announcement.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m. EST at the Family Violence Operations Center: 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209 between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ADDRESSES: Applicants should be mailed to Family Violence Operations Center; 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Attention: Application for Family Violence Prevention and Services Program.

Number of Copies Required: One signed original application and four copies should be submitted at the time of initial submission. (OMB–0970–0062, expiration date 10/31/2001.)

Acknowledgement of Receipt: An acknowledgement will be mailed to all applicants with an identification number that will be noted on the acknowledgement. This number must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within three weeks after the application deadline, applicants may notify the Family Violence Operations Center by telephone at (703) 351–7676. Applicant should also submit a mailing label for the acknowledgement.

Note: To facilitate receipt of this acknowledgement from ACF, applicant should include a cover letter with the application containing an E-mail address and facsimile (FAX) number if these items are available to applicant.

FOR FURTHER INFORMATION, CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone Sunni Knight (202) 401–5319, James Gray (202) 401–5705, William Riley (202) 401–5529 or Shena Russell (202) 205–5932.

For a Copy of the Announcement, Contact: Family Violence Operations Center: 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Attention: Application for Family Violence Prevention and Services Program. (703) 351–7676.

In addition, the announcement will be accessible on the OCS website for reading or printing at: *http://www.acf.dhhs.gov/programs/ocs* under ''Funding Opportunities''.

SUPPLEMENTARY INFORMATION: The Office of Community Services, Administration for Children and Families, announces that applications are being accepted for funding for FY 2001 projects on:

FV–01–01—Specialized Outreach Projects for Services to Underserved and Diverse Populations;

FV–02–01—Minority Training Grant Stipends in Domestic Violence for Historically Black, Hispanic-Serving, and Tribal Colleges and Universities;

FV–03–01—Public Information/Community Awareness Campaign Projects for the Prevention of Family Violence; and

FV–04–01—Collaborative Efforts between Faith-Based Organizations and Domestic Violence Organizations.

This program announcement consists of four parts.

Part I provides information on the family violence prevention and services program and the statutory funding authority applicable to this announcement.

Part II describes the priority areas under which applications for FY 2001 family violence funding are being requested.

Part III describes the applicable evaluation criteria.

Part IV provides other information and instructions for the development and submission of applications.

Part I. Introduction

Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Public Law 102–295, and was amended and reauthorized for fiscal years 1996 through 2000 by Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994 and by Public Law 104–235, the ''Child Abuse Prevention and Treatment Act Amendment of 1996.'' The Act was most recently amended by the ''Violence Against Women Act of 2000'' (Pub. L. 106–386, 10/28/2000).

The purpose of this legislation is to assist States in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and provide immediate shelter and related assistance for victims of family violence and their dependents.

We expect to fund four priority areas in FY 2001:

1. Specialized Outreach Projects for Services to Underserved and Diverse Populations—In order to further the commitment of bringing diverse voices to the table, OCS intends to support a minimum of two projects that convene researchers, activists, survivors, and practitioners who have been advocates of a more culturally specific orientation towards eliminating domestic violence.

2. Minority Training Grant Stipends in Domestic Violence for Historically Black, Hispanic Serving, and Tribal Colleges and Universities—The provision of training grant stipends to Historically Black, Hispanic-Serving and Tribal Colleges and Universities will assist in generating skill-building and training opportunities particularly responsive to

issues related to cultural context and the extent to which individuals in some minority groups do or do not seek services from the domestic violence system.

3. Public Information/Community Awareness Campaign Projects for the Prevention of Family Violence—The public information/community awareness projects will provide information on resources, facilities, and service alternatives available to family violence victims and their dependents, other individuals seeking assistance, community organizations, local school districts, and others.

3. Collaborative Efforts between Faith-Based Spiritual Organizations and Domestic Violence Organizations—Collaborative efforts between faith-based/spiritual organizations and the domestic violence community that will create additional points of entry and assistance for persons in abusive relationships as they seek services.

Part II. Fiscal Year 2001 Family Violence Projects

1. Priority Area Number FV–01–01: Specialized Outreach Projects for Services to Underserved and Diverse Populations

Background

The Office of Community Services in the Administration for Children and Families is aware of the importance of moving beyond a ''one size fits all'' approach in the development and implementation of Federal policies and programs to address domestic violence in ethnically and racially diverse communities. In order to further ACF's commitment of bringing diverse voices to the table, OCS intends to support at least two projects that will convene researchers, activists, and practitioners who have been advocating a more culturally oriented response to the problems of domestic violence within specific racial/ethnic communities. OCS believes that these projects will assist OCS, researchers, policy makers, domestic violence organizations and organizations serving these communities nationwide to identify and develop model programs and policies and improve services, particularly services that are respectful of cultural and community characteristics.

Program Purpose

The expertise developed as a result of the Outreach projects will offer assistance on resource information, policy analysis and review, and training for public and private organizations in the domestic violence community.

Eligible Applicants

Public and private non-profit organizations and/or collaborations that focus primarily on issues of domestic violence in racial, ethnic, and underserved diverse communities. All applicants must have documented organizational experience in the areas of domestic violence prevention and services, and experience related to the specific underserved population to whom assistance would be provided. Each applicant must have an advisory board/steering committee that is reflective of the targeted underserved community.

Minimum Requirements for Project Design

The Office of Community Services seeks to support specialized outreach effort on behalf of underserved and diverse communities. The OCS will support at least two projects each of which will be staffed and/or supported by expert and multi-disciplined teams that are culturally responsive and competent in regard to the issues of domestic violence in their particular community.

Areas of emphasis to be developed in the applicants' proposals are:

A description of the immediacy of the need(s) to be addressed as an outreach Project; and the provision information on the specific services your organization currently provides, and a general description of services to be provided as a demonstration;

The technical assistance, training and consultations needed to improve the cultural relevancy of service delivery, resource utilization, and state-of-the-art-techniques related to program implementation, service delivery, and evaluation;

The development of a network of culturally competent professionals in domestic violence and the coordination of their input and expertise to assist persons, programs or agencies requesting assistance or information;

The presentation of the technical approach and specific strategies for assistance to the field that is national in scope, culturally specific in emphasis, and includes the use of an expert panels and/or working groups;

The description of efforts that will be initiated with other national advocacy and domestic violence organizations, other national and technical assistance resource centers and clearinghouses and articulate how the initiation of or continued coordination with them will enhance the project's efforts;

The provision of a detailed discussion or plan which proposes the implementation of special projects related to policy issues, training curricula, service delivery models or other aspects of services, related to the prevention of domestic violence;

The provision of a workplan and evaluation schedule, and a plan for a report on the effectiveness of the project one-year after the effective date of the grant award;

The description of the Outreach Project Staff and supportive expertise including; the steering committee, organizational or institutional affiliations, capability, and domestic violence experience; and

A description of the organizational and administrative structure, the management plan, and the cost structure within which the project will operate; describe the administrative, operational and organizational relationships to be established with other centers and technical assistance entities to establish an effective national network.

Project Period

Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 3 years. Applications for continuation grants funded under these awards beyond the one-year budget period will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the government.

Budget Period and Federal Share

Total funds available for the first 12-months of each of the projects is estimated to be approximately $150,000 subject to the availability of funds.

Matching Requirement

Grantees must provide at least 25 percent of the total cost of the project. The total cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match through cash contributions. If approved for funding, the grantee will be held accountable for commitments of non-Federal resources, and failure to provide the required amounts will result in a disallowance of unmatched Federal funds.

Therefore, a project requesting $150,000 in Federal funds (based on an award of $150,000 per budget period) must include a match of at least $50,000 (25% of the total project cost) for a total budget of $200,000.

Anticipated Number of Projects To Be Funded

It is anticipated that a minimum of two Outreach Demonstration projects will be funded. Additional projects may be funded if awarded projects are for lesser amounts.

CFDA 93.592—Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

2. Priority Area Number FV–02–00: Minority Training Grant Stipends in Domestic Violence for Historically Black, Hispanic-Serving, and Tribal Colleges and Universities

Background

Media coverage, court records, and crime statistics suggest that a substantial proportion of the domestic violence which occurs in the general population involves underserved populations, including populations that are underserved because of ethnic, racial, cultural, language diversity or geographic isolation (Brachman & Saltzman, 1995). Official statistics on child abuse and spouse abuse indicate that women, minorities, and the poor are over-represented among victims of domestic violence (Straus, Gelles, & Steinmetz, 1980). The scholars and practitioners who are responding to violence in underserved communities are currently few in number and work in isolation. The purpose of this effort and priority area is to increase the capacity of HBCUs, Hispanic and Tribal Colleges and Universities to develop practice-based knowledge and provide stipends for students with a specialty in working in the field of Family Violence.

There are three Executive Orders that support the provision of training grants to the educational institutions targeted in this priority area:

(1) Executive Order 13021 of October 19, 1969, Tribal Colleges and Universities that reaffirm the special relationship of the Federal Government to American Indians and identifies several purposes that support access to opportunities, resources, and educational opportunities for economically disadvantaged students.

(2) Executive Order 12876 of November 1, 1993, Historically Black Colleges and Universities which requires strengthening the capacity of Historical Black Colleges and Universities to provide quality education and increased opportunities to participate in and benefit from Federal programs.

(3) Executive Order 12900 of December 5, 1994, Educational Excellence for Hispanic Americans that requires the provision of quality education and increased education and increased opportunities to participate in and benefit from Federal programs.

Purpose

OCS/ACF plans to fund at least six projects to Historically Black Colleges and Universities; Hispanic/Latino Institutes of Higher Education; and American Indian Tribally controlled Community Colleges and Universities. (Fiscal Year 1999 and 2000 recipients of Family Violence Training Grant Stipend awards are not eligible applicants.) The institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Social Work Education.

The purposes of the projects are:

(a) To provide support for graduate and undergraduate students who show promise and demonstrate serious interest and commitment to working in the field of issues related to domestic violence or in underserved populations. Historically Black, Hispanic, and American Indian colleges and universities will be given special consideration in order to generate skill building and training opportunities particularly responsive to issues of cultural content;

(b) To support the growth of college and university-based practice knowledge about domestic violence; encourage social work students to pursue careers that address the issue of domestic violence; and stimulate the training of new social workers in the field; and

(c) To identify best practices regarding critical issues in domestic violence prevention, identification, and treatment efforts in under-served domestic violence populations. These grants will include an institutional payment to cover the individual student's tuition and fees, and a stipend for the student.

Minimum Requirements for Project Design

Field Placement: The grant will provide stipends for qualified individuals pursuing degrees in social work with a special interest in working in the field of domestic violence. It will provide one-year graduate and/or undergraduate stipends to support skill building and training of students interested in domestic violence treatment and intervention services to underserved racial and ethnic minority populations. Stipends to any one student should not exceed a 12-month period.

Placements must provide a structured learning environment that enables students to compare their field placement experiences, integrate knowledge from the classroom, and expand knowledge beyond the scope of the practicum setting (Council on Social Work Education, 1994, Baccalaureate and Master's Program Evaluative Standards, Interpretive Guidelines, Curriculum Policy Statement, and the Accreditation Standards and Self-Study Guides).

Proposals must include content about differences and similarities in the experiences, needs, and beliefs of the people being served. The proposals must also include content about differential assessment and intervention skills that will enable practitioners to serve diverse populations. The applicant must indicate the area of interest, objectives, and goals of the placement study. All field placements will be at a minimum of 400 hours for a one-year period.

The field placements should focus on the general and specific placement areas as indicated:

—Educational services to the community on domestic violence
—Interventions with domestic violence victims
—Batterer's intervention services
—Medical and/or social services to families experiencing family violence
—Domestic violence and the court system
—Impact of domestic violence on welfare reform services
—Legal services related to domestic violence
—Crisis intervention services
—Community service centers
—The Faith community
—Prevention services with high-risk youth
—Prisons

Faculty Involvement: Faculty must indicate the use of professional supervision to enhance the learning of students and must coordinate and monitor practicum placements of student selected for stipends.

Proposals must define the social work setting and practice, field instructor assignments and activities, and student learning expectations and responsibilities.

Individual faculty may organize their practicum-placements in different ways but must ensure educationally directed, coordinated, and monitored practicum experiences are maintained for students and that these field experiences are related to domestic violence.

Faculty must articulate clear practice and evaluation goals for the field

practicum. Each institutional proposal must provide an orientation plan for the student to the practicum placement and the agency's policy.

Final Products/Results and Benefits Expected

- Practicum proposal/contract between the student, the organization (agency), and the college or university indicating defined objectives, goals, students performance, benefits to student, lessons learned, and recommendations for future placement at agency;
- A Final Report focused on agency population served, difficulties encountered, outcomes, implications and recommendations for future placements. The report should be prepared and submitted to the Office of Community Services and submitted at the end of the project period; and
- A mid-year student performance evaluation will be provided to participating students.

Eligible Applicants

Historically Black Colleges and Universities; Hispanic Serving Colleges and Universities; and Tribal Colleges and Universities. Hispanic serving Colleges and Universities are defined as those who student population is more than 25% Hispanic. Tribal Colleges and Universities are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978. (Fiscal Year 1999 and 2000 recipients of Family Violence Training Grant Stipend awards are not eligible applicants.) Applicant institutions must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Social Work Education.

Participants would include qualified undergraduate or graduate social work students. All students must be enrolled in the institution.

- Recipients of student stipends must maintain satisfactory academic records and be full-time students.
- Awards will be made only to eligible institutions on behalf of their qualified candidates.

Project Duration

Awards, on a competitive basis, will be for a one-year budget period, although the project periods may be for two years. Application for continuation grants funded under these awards beyond the one-year budget period will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the government. Stipends are awarded for one year, not to exceed 12 months.

Budget Period and Federal Share

Total funds available for the first 12 months budget period is estimated to be approximately $100,000 subject to the availability of funds. The Federal share will fund up to five student candidates at a maximum of $11,250 each and will fund one faculty coordinator for the project at $43,750.

Matching Requirements

Successful applicants must provide at least 25 percent of the total cost of the project. The total cost of the project is the sum of the ACF share and the non-federal share. The non-federal share may be met by cash or by in-kind contributions, although applicants are encouraged to meet their match through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% of the total project cost) for a total budget of $133,333.

Anticipated Number of Projects To Be Funded

It is anticipated that a minimum of six projects will be funded. Applications for lesser amounts of the Federal share will also be considered for this priority area.

CDFA 93.592—Family Violence Prevention and Services: Family Violence Prevention and Services Act as amended.

3. Priority Area FV 03–01—Public Information and/or Community Awareness Campaign Projects for the Prevention of Family Violence

Background

Based on the positive response to prior year public information and community awareness grants, ACF will again make these grants available in FY 2001.

Previous public information/community awareness grants have stimulated the development of a number of very effective informational programs and activities at the local levels. They have assisted community organizations to focus on and emphasize prevention; helped make available public service announcements and descriptive program brochures in several different languages, including Russian and Vietnamese; and assisted in the implementation of conflict resolution activities in elementary, middle, and high school curricula. The continuation of these grant awards will help assure that individuals, particularly these within minority communities, are aware of available alternatives and resources for the intervention and prevention of family violence.

This priority area requires the development and implementation of an effective public information campaign that may be used, for example, by public and private agencies, schools, churches, boys and girls clubs, community organizations, and individuals.

Accurate information is critical to any community awareness strategy and activity. How information is communicated must be modified where communication barriers may exist because of perceived or real language differences and cultural insensitivity. OCS seeks to continue to provide victims, their dependents, and perpetrators, and others in the community with knowledge of the service options available.

Purpose

To assist in the continued development of state/local public information and community awareness campaign projects and activities that assist in preventing family violence. These projects should provide information on resources, facilities, other individuals seeking assistance, and service alternatives available to family violence victims and their dependents, community organizations, local school districts, and others.

Eligible Applicants

State and local public agencies, Territories, and Native American Tribes and Tribal Organizations who are, or have been, recipients of Family Violence Prevention and Services Act grants; State and local private non-profit agencies experienced in the field of family violence prevention; and public and private non-profit educational institutions, community organizations and community-based coalitions, and other entities that have designed and implemented family violence prevention information activities or community awareness strategies.

Minimum Requirements for Project Design

In order to successfully compete under the priority area, the applicant should:

- Present a plan for community awareness and public information activities that clearly reflects how the applicant will target the populations at risk, including pregnant women;

coordinate its implementation efforts with public agencies and other community organizations; and communicate with institutions active in the field of family violence prevention.

• Describe the proposed approach to the development of a public information campaign and identify the specific audience(s), community(s), and groups that will be targeted, including communities and groups with the highest prevalence of domestic violence.

• Include, as critical elements in the plan:

A set of achievable objectives and a description of the population groups, relevant geographic area, and the indicators to be used to measure progress and the overall effectiveness of the campaign;

The intended strategies for test marketing the development plans and assurances that effectiveness criteria will be implemented prior to the completion of the final plan;

The development and use of non-traditional sources as community awareness or information providers (applicants should present specific plans for the use of local organizations, businesses and individuals in the distribution of information and materials); The identification of the media to be used in the campaign and the geographic limits of the campaign;

How the applicant would be responsive and sensitive to minority communities and their cultural perspectives; and

A description of the kind, volume, distribution, and timing of the proposed information with assurances that the public information campaign activities will not supplant or lower the current frequency of current public service announcements.

Project Duration

The length of the project should not exceed 12 months.

Federal Share of the Project

The maximum Federal share of the project will not exceed $35,000 for the 1-year project period. Applications for lesser amounts also will be considered under this priority area.

Matching Requirement

Successful grantees must provide at least 25 percent of the total cost of the project. The approved total cost of the project. Applications for lesser amounts also will be considered under this priority area. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $35,000 in Federal funds must include a match of at least $11,666 (25% of total project cost). If approved for funding, grantees will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded

It is anticipated that five projects will be funded at the maximum level. We may fund more than five projects if we receive acceptable applications for lesser amounts.

CFDA 93.592—Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

4. Priority Area FV–04–01—Collaborative Efforts Between Faith-Based/Spiritual Organizations and Domestic Violence Organizations

Background

Surveys indicate that approximately one out of ten person avail themselves of social services provided by congregations and faith-based organizations. Childcare was the service most often requested. The second most frequently requested service was counseling. Nearly one in every three survey respondents said that they received some type of counseling from spiritual leaders or a member of their affiliated congregation. For many women across varying social and economic strata, churches, synagogues or places of contemplation and spiritual connection are the only sources of safe and confidential interaction.

However, even in these settings of assumed trust and confidentiality, many women who seek counseling are hesitant to expose the nature and extent of their abuse because of fear, shame, guilt, or feelings of human or spiritual failure. Additionally, spiritual leaders, though dedicated to the principles of respect and human dignity for all people, are sometimes unable to recognize the characteristics and results of abusive relationships. Even when recognized, they often lack the resources and information available to provide support that would ensure protection and safety through the resolution of the problem. Establishing a collaborative effort between faith-based organizations and domestic violence intervention services will help provide organizations with information about the availability of domestic violence intervention services, effectively create additional points of entry to services for victims of family violence; and expand/strengthen the network of knowledgeable service providers.

Purpose

The purpose of this priority area is to support collaborative efforts that would enhance the response to a battered woman whose initial point of contact for help was with a member of a faith-based organization. Further, this priority area seeks to support the development of credible and helpful information from faith based organizations in order to increase the involvement and leverage from this vital segment of the community.

Some suggested activities applicable under this priority area are:

(a) Plan and implement training and the development of training materials that enable leaders of faith-based organizations to increase the capacity of the faith-based community to understand and appropriately respond to the complexities of domestic violence.

(b) Plan and implement a replicable domestic violence collaborative project that provides information on resources, facilities, and service alternatives to family violence victims and their dependents for use by faith-based organizations.

(c) Plan and implement a domestic violence information and awareness project related to specific population groups such as youth, elderly, disabled, or gay/lesbian/transgender individuals that provide information on the services available to these groups for intervention and prevention.

Eligible Applicants

State and local private non-profit agencies experienced in the field of family violence prevention in collaboration with private non-profit faith-based organizations, public and private non-profit educational/faith-based institutions, associations, or societies; and other entities that have designed and implemented educational, informational material and activities related to the prevention of domestic violence as a faith-based issue.

Minimum Requirements for Project Design

This project requires the collaboration between a recognized domestic violence service provider or state domestic violence coalition with a church, synagogue, mosque, faith-based or spiritually based organization.

The applicants' proposals should address the following: Demonstrate that the required collaboration has occurred

in the preparation and planned implementation of the activities specified in the grant application.

Demonstrate that the developed materials and/or training will incorporate guiding principles similar to the following: (1) The safety of victims and children is a priority; (2) The integrity and authority of each battered woman over her own life is to be respected; (3) Perpetrators, not victims, must be held responsible for the abuse and for stopping it; and (4) The confidentiality of client information must be ensured.

• Include, as critical elements in the plan:

• A set of identified objectives for training, outreach, and the development of training materials.

• Development of an approach and strategy that is useful in providing sensitive and responsive services and/or training which may incorporate the principles of faith-based organizations.

• A description of the type, distribution and timing of information to be developed and distributed.

• A description of any non-traditional informational sources, counseling practices, programs, or organizational linkages that might be utilized in the provision of services and information to persons in abusive situations who contact faith-based organizations.

Project Duration

The length of the project should not exceed 12 months.

Federal Share of the Project

The maximum Federal share of the project is not to exceed $37,500 for the 1-year project period. Applications for lesser amounts also will be considered under this priority area.

Matching Requirements

Successful grantees must provide at least 25 percent of the total cost of the project. The approved total cost of the project is the sum of the ACF share and non-Federal share. Cash or in-kind contributions may meet the non-Federal share although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds. Therefore, a project requesting $37,500 in Federal funds (based on an award of $37,500 per budget period) must include a match of at least $12,500 (25% of the total project cost) for a total budget of $50,000.

Anticipated Number of Projects to be Funded: It is anticipated, subject to the availability of funds, that six projects will be funded at the maximum level; more than six projects may be funded depending on the number of acceptable applications for lesser amounts which are received.

Part III. Evaluation Criteria

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review each application. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate Project Design section.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below and provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

1. Need for the Project (10 Points)

The extent to which the need for the project and the problems it will address have national and local significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies, and its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice; the relevance of other documentation as it relates to the applicant's knowledge of the need for the project; and the identification of the specific topic or program area to be served by the project. Maps and other graphic aids should not be included.

2. Goals and Objectives (10 Points)

The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and the extent to which the objectives are realistic, specific, and achievable.

3. Approach (30 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement; and provides for projections of the accomplishments to be achieved.

The extent to which, when applicable, the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

4. Results and Benefits (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the application, the extent to which the application indicates the anticipated contributions to policy, practice, and theory, and the extent to which the proposed project costs are reasonable in view of the expected results. Identify, in specific terms, the results and benefits, for target groups and human service providers, to be derived from implementing the proposed project. Describe how the expected results and benefits will relate to previous demonstration efforts; and

5. Level of Effort (30 Points)

Staffing Pattern

Describe the staffing pattern for the proposed project, clearly linking responsibilities to project tasks and specifying the contributions to be made by key staff.

Competence of Staff

Describe the qualifications of the project team including any experiences working on similar projects. Also, describe the variety of skills to be used, relevant educational background and the demonstrated ability to produce final results that are comprehensible and usable. One or two pertinent paragraphs on each key member are preferred to resumes. However, resumes may be included in the ten pages allowed for attachments/appendices.

Adequacy of Resources

Specify the adequacy of the available facilities, resources and organizational experience with regard to the tasks of the proposed project. List the financial, physical and other resources to be provided by other profit and nonprofit

organizations. Explain how these organizations will participate in the day to day operations of the project.

Budget

Relate the proposed budget to the level of effort required obtaining project objectives and providing a cost/benefit analysis. Demonstrate that the project's costs are reasonable in view of the anticipated results.

Collaborative efforts

Discuss in detail and provide documentation for any collaborative or coordinated efforts with other agencies or organizations. Identify these agencies or organizations and explain how their participation will enhance the project. Letters from these agencies and organizations discussing the specifics of their commitment must be included in the application.

Authorship

The authors of the application must be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the project is funded.

Part IV. Other Information and Instructions for the Development and Submission of Applications

Applicants should note that non-responsiveness to the section designated as *''Minimum Requirements for Project Design,''* in the applicable priority areas, would result in a low evaluation score by the panel of expert reviewers.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Previous experience has shown that an application which is broad and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused and directly responsive to the concerns of that specific priority area.

A. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, American Samoa and Palau have elected to participate in the Executive Order process and have established a Single Point of Contact (SPOCs). Applicants from these twenty-eight jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or indicate ''not applicable'' if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations that may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, OCSE Office of Grants Management, 370 L'Enfant Promenade, SW., 4th Floor East, Washington, DC 20447.

A list of the Single Point of Contact for each State and Territory is included at the end of this announcement as Attachment G.

B. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain information requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

C. Deadline for Submittal of Applications

The closing date and time for submittal of applications under this program announcement is found at the beginning of this program announcement under ''Closing Dates.''

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: Family Violence Operations Center: 1815 North Myer Drive, Suite 300, Arlington, VA 22209; Attention: Application for Family Violence Prevention and Services Program.

Applications handcarried by applicants, applicant couriers, or overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the Family Violence Operations Center: 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, between Monday and Friday, (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of the date or time of submission and time of receipt.

Late Applications

Applications, which do not meet the criteria above, are considered late applications. The ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines

ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; widespread disruption of the mails; or if ACF determines a deadline extension to be in the best interest of the Government. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

D. Instructions for Preparing the Application and Completing Application Forms

1. SF 424

The SF 424 and certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies.

At the top of the Cover Page of the SF 424, enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

2. SF 424A—Budget Information—Non-Construction Programs

With respect to the 424A, Budget Information—Non-Construction Programs, Sections A, B, C, E, and F are to be completed. Section D does not need to be completed.

In order to assist applicants in correctly completing the SF 424 and 424A, detailed instructions for completing these forms are contained on the forms themselves. See the Instructions accompanying the attached SF 424A, as well as the instructions set forth below.

Section A—Budget Summary

Lines 1–4

Column (a) Line 1—Enter OCS FVPS Program.

Column (b) Line 1—Enter 93.592.

Columns (c) and (d)—Not Applicable.

Columns (e), (f) and (g)—For lines 1 through 4, enter in appropriate amounts needed to support the project for the entire project period.

Line 5

Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period will be entered in Column (1).

Allocability of costs is governed by applicable cost principles set forth in the Code of Federal Regulations (CFR), Title 45, Parts 74 and 92.

Budget estimates for administrative costs must be supported by adequate detail for the grant officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class other, identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives; large dollar amounts; local, regional, or other travel; new positions; major equipment purchases; and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Line 6a

Personnel—Enter the total costs of salaries and wages.

Justification—Identify the project director and staff. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Line 6b

Fringe Benefits—Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate, which is entered on Line 6j.

Justification—Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Line 6c

Travel—Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification—Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances. Traveler must be a person listed under the personnel line or employee being paid under non-federal share.

Note: Local transportation and Consultant travel costs are entered on Line 6h.

Line 6d

Equipment—Enter the total costs of all equipment to be acquired by the project. Equipment means an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000.

Note: If an applicant's current rate agreement was based on another definition for equipment, such as ''tangible personal property $500 or more'', the applicant shall use the definition used by the cognizant agency in determining the rate(s). However, consistent with the applicant's equipment policy, lower limits may be set.

Justification—Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project.

Line 6e

Supplies—Enter the total costs of all tangible personal property other than that included on line 6d.

Justification—Provide a general description of what is being purchased such as type of supplies: office, classroom, medical, etc. Include equipment costing less than $5,000 per item.

Line 6f

Contractual—Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification—All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) currently set at $100,000. Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Line 6g

Construction—Not applicable.

Line 6h

Other—Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to,

insurance, food, medical and dental costs (non-contractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6j

Indirect Charges—Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by DHHS or other Federal agencies.

Line 6k

Totals—Enter the total amount of Lines 6i and 6j.

Line 7

Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification—Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of Non-Federal resources that will be used to support the project. Non-Federal resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (See SF–424A, Section B.6) and whether it is cash or third party in-kind. The firm commitment of these required funds must be documented and submitted with the application in order to be given credit in the Criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8

Column (a)—Enter the project title.

Column (b)—Enter the amount of cash or donations to be made by the applicant.

Column (c)—Enter the State contribution.

Column (d)—Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Column (e)—Enter the total of columns (b), (c), and (d).

Lines 9, 10 and 11

Leave Blank.

Line 12

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification—Describe third party in-kind contributions, if included.

Section F—Other Budget Information

Line 21

Direct Charges—Include narrative justification required under Section B for each object class category for the total project period.

Line 22

Indirect Charges—Enter the type of DHHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement.

Line 23

Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description that accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisual materials should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project ''abstract.'' It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II. The narrative should also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) Need for the Project;
(b) Goals and Objectives;
(c) Approach;
(d) Results and Benefits; and
(e) Level of effort.

The specific information to be included under each of these headings is described in Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½″ × 11″ plain white paper, with 1″ margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for the Project'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½″ × 11″ sheet of paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these pose photocopy difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project

team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities; and (3) Certification Regarding Environmental Tobacco Smoke. These certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this Application Kit and should be reproduced as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities, and Environmental Tobacco Smoke certifications.

E. The Application Package

Each application package must include an original and four copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Applicants should include a self-addressed stamped acknowledgement card. All applicants will be notified automatically about the receipt of their application. If acknowledgement of receipt of your application is not received within three weeks after the deadline date, please notify the Family Violence Operations Center at (703) 351–7676.

F. Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required financial grantee participation.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of 45 CFR part 74 or 92.

Grantees will be required to submit semi-annual progress and semi-annual financial reports (SF 269) throughout the project period, as well as a final progress and financial report within 90 days of the termination of the project.

Audit requirements are prescribed in OMB Circular A–133, ''Audits of State, Local Governments and Non-Profit Organizations.'' This circular establishes uniform audit requirements for non-Federal entities that administer Federal awards. The revised circular became effective July 30, 1997 and applies to audits of fiscal years beginning after June 30, 1996. If an applicant does not request indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions or Indian Tribes and Tribal organizations. Current and prospective recipients (and their sub-tier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their sub-tier contractors and/or sub-grantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and the purpose of any agreements with lobbyists whom recipients or their sub-tier contractors or sub-grantees will pay with profits or non-appropriated funds on or after December 22, 1989 and (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance.

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: April 2, 2001.

Robert Mott,

Acting Director, Office of Community Services.

Family Violence Prevention and Services Program; List of Attachments

Attachment B–1 Application for Federal Assistance
Attachment B–2 Budget Information—Non-Construction Programs
Attachment B–3 Assurances—Non-Construction Programs
Attachment C Certification Regarding Drug-Free Workplace Requirements
Attachment D Certification Regarding Debarment, Suspension, and other Responsibility Matters (Primary Covered Transactions)
Attachment E Certification Regarding Environmental Tobacco Smoke
Attachment F–1 Certification Regarding Lobbying
Attachment F–2 Disclosure of Lobbying Activities
Attachment G State Single Point of Contact Listing

BILLING CODE 4184–01–P

Attachment B-1, Page 1

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF–424

Attachment B–1 Page 2

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability form an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Prescribed by OMB Circular A-10

Attachment B-2, Page 2

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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BILLING CODE 4184–01–C

INSTRUCTIONS FOR THE SF–424A

Attachment B–2, Page 3

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe now and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–j—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter total of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(3). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this lines.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisions, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment B–3, Page 1

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for

reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040) Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the Untied States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq;): (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.): (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Attachment C, Page 1

Developing ACF Program Announcements

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(l) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by an judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statues;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance:

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate 1. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace:

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employ will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment D, Page 1

Developing ACF Program Announcements

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enter into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participants shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participants learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment F–1

Developing ACF Program Announcements

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL. ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

Attachment F-2, Page 1

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount,** *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Attachment F–2, Page 2

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in Item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level

below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI)

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number..

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment G, Page 1

Office of Management and Budget

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below. States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of these States, you may still send application materials directly to a Federal awarding agency.

Arkansas

Tracy L. Copeland, Manager, State Clearninghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206, tlcopeland@dfa.state.ar.us

California

Grants Coordination, State Clearninghouse, Office of Planning and Research, P.O. Box 3044, Room 222, Sacramento, California 95812–3044, Telephone: (916) 445–0613, Fax: (916) 323–3018, state.clearinghouse@opr.ca.gov

Delaware

Charles H. Hopkins, Executive Department, Office of the Budget, 540 S. Dupont Highway, 34rd Floor, Dover, Delaware 19901, Telephone: (302) 739–3323, Fax: (302) 739–5661, chopkins@state.de.us

District of Columbia

Ron Seldon, Office of Grants Management and Development, 717 14th Street, NW., Suite 1200, Washington, DC 20005, Telephone: (202) 727–1705, Fax: (202) 727–1617, ogmd-ogmd@dcgov.org

Florida

Cherie L. Trainor, Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone (850) 922–5438, (850) 414–5495 (direct), Fax: (850) 414–0479, cherie.trainor@dca.state.fl.us,

Georgia

Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone: (404) 656–3855, Fax: (404) 656–7901, gach@mail.opb.state.ga.us

Illinois

Virginia Bova, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, Fax (312) 814–8485, vbova@commerce.state.il.us

Iowa

Steven R. McCann, Division of Community and Rural Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4809, steve.mccann@ided.state.ia.us

Kentucky

Ron Cook, Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Telephone: (502) 573–2382, Fax: (502) 573–2512, ron.cook@mail.state.ky.us

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, (207) 287–1461 (direct), Fax: (207) 287–6489, joyce.benson@state.me.us

Maryland

Linda Janey, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 West Preston Street—Room 1104, Baltimore, Maryland 21201–2305, Telephone: (410) 767–4490, Fax: (410) 767–4480, linda@mail.op.state.md.us

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 535 Griswold, Suite 300, Detroit Michigan 48226, Telephone: (313) 961–4266, Fax: (313) 961–4869, pfaff@semcog.org

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Building, Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, Fax: (601) 359–6758

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, Room 915, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, Fax: (573) 522–4395, pohll_@mail.oa.state.mo.us

Nevada

Heather Elliott, Department of Administration, State Clearinghouse, 209 E. Musser Street, Room 200, Carson City, Nevada 89701, Telephone: (775) 684–0209, Fax: (775) 684–0260, helliott@govmail.state.nv.us

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, Fax: (603) 271–1728, jtaylor@osp.state.nh.us

New Mexico

Ken Hughes, Local Government Division, Room 201 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–4370, Fax: (505) 827–4948, khughes@dfa.state.nm.us

North Carolina

Jeanette Furney, Department of Administration, 1302 Mail Service Center, Raleigh, North Carolina 27699–1302, Telephone: (919) 807–2323, Fax: (919) 733–9571, jeanette.furney@ncmail.net

North Dakota

Jim Boyd, Division of Community Services, 600 East Boulevard Ave, Dept 105, Bismarck, North Dakota 58505–0170, Telephone: (701) 328–2094, Fax: (701) 328–2308, jboyd@state.nd.us

Rhode Island

Kevin Nelson, Department of Administration, Statewide Planning Program, One Capitol Hill, Providence, Rhode Island 02908–5870, Telephone: (401) 222–2093, Fax: (401) 222–2083, knelson@doa.state.ri.us

South Carolina

Omeagia Burgess, Budget and Control Board, Office of State Budget, 1122 Ladies Street, 12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, Fax: (803) 734–0645, aburgess@budget.state.sc.us

Texas

Denise S. Francis, Director, State Grants Team, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 305–9415, Fax: (512) 936–2681, dfrancis@governor.state.tx.us

Utah

Carolyn Wright, Utah State Clearinghouse, Governor's Office of Planning and Budget, State Capitol, Room 114, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, Fax: (801) 538–1547, cwright@gov.state.ut.us

West Virginia

Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, Fax: (304) 558–3248, fcutlip@wvdo.org

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, Fax: (608) 267–6931, jeffrey.smith@doa.state.wi.us

Guam

Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, Fax: 011–472–2825, jer@ns.gov.gu

Puerto Rico

Jose Caballero/Mayra Silva, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 723–6190, Fax: (787) 722–6783

North Mariana Islands

Ms. Jacoba T. Seman, Federal Programs Coordinator, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2289, Fax: (670) 664–2272, omb.jseman@saipan.com

Virgin Islands

Ira Mills, Director, Office of Management and Budget, #41 Norre Gade Emanicpation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802, Telephone: (340) 774–0750, Fax: (340) 776–0069, Irmills@usvi.org

Changes to this list can be made only after OMB is notified by a State's officially designated representative. E-mail messages can be sent to *grants@omb.eop.gov.* If you prefer, you may send correspondence to the following postal address: Attn: Grants Management, Office of Management and Budget, New Executive Office Building, Suite 6025, 725 17th Street, NW, Washington, DC 20503.

Please note: Inquiries about obtaining a Federal grant should not be sent to the OMB e-mail or postal address shown above. The best source for this information is the *CFDA.*

[FR Doc. 01–8455 Filed 4–5–01; 8:45 am]

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Federal Register

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Friday, April 6, 2001

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FEDERAL REGISTER PAGES AND DATE, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 6, 2001

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Alaska; fisheries of Exclusive Economic Zone—
Western Alaska Community Development Quota Program; published 3-7-01
Western Alaska Community Development Quota Program; correction; published 3-22-01

CONSUMER PRODUCT SAFETY COMMISSION
Dive sticks; published 3-7-01
Correction; published 3-22-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare and Medicaid:
Physicians' referrals to health care entities with which they have financial relationships
Effective date delay and technical amendment; published 2-2-01

LABOR DEPARTMENT
Occupational Safety and Health Administration
Safety and health standards:
Cotton dust; occupational exposure; published 12-7-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
British Aerospace; published 2-21-01
Dornier Luftfahrt GmbH; published 2-21-01
Pratt & Whitney; published 3-2-01

TREASURY DEPARTMENT
Privacy Act; implementation; published 4-6-01

VETERANS AFFAIRS DEPARTMENT
Adjudication; pensions, compensation, dependency, etc.:
Signature by mark; published 4-6-01¶

RULES GOING INTO EFFECT APRIL 7, 2001

TRANSPORTATION DEPARTMENT
Coast Guard
Regattas and marine parades:
San Diego Crew Classic; published 4-6-01¶

RULES GOING INTO EFFECT APRIL 8, 2001

EDUCATION DEPARTMENT
Postsecondary education:
Developing Hispanic-Serving Institutions Program
Effective date delay; published 2-1-01

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Intelligent Transportation System architecture and standards
Effective date delay; published 2-7-01

COMMENTS DUE NEXT WEEK

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Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
Rinderpest and foot-and-mouth disease; disease status change—
South Africa; comments due by 4-10-01; published 2-9-01

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
Special milk, summer food service, child and adult care food, free and reduced price meals and free milk in schools programs—
State Medicaid and State Children's Health Insurance Program; children's eligibility information disclosure; comments due by 4-11-01; published 1-11-01

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Retained water in raw meat and poultry products; poultry chilling requirements; comments due by 4-9-01; published 1-9-01

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic highly migratory species—
Pelagic longline management; comments due by 4-9-01; published 3-30-01
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Domestic fisheries; exempted fishing permits; comments due by 4-11-01; published 3-27-01
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Commodity Futures Modernization Act of 2000; implementation:
Trading facilities, intermediaries, and clearing organizations; new regulatory framework; comments due by 4-9-01; published 3-9-01

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TRICARE program—
Pharmacy Benefits Program, partial implementation; and National Defense Authorization Act for Fiscal Year 2001; implementation; comments due by 4-10-01; published 2-9-01

ENVIRONMENTAL PROTECTION AGENCY
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Washington; perchloroethylene dry cleaning facilities; comments due by 4-11-01; published 3-12-01
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Stratospheric ozone protection—
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Laboratory essential uses (2001 CY); de minimis exemption; comments due by 4-12-01; published 3-13-01
Air quality implementation plans; approval and promulgation; various States ; air quality planning purposes; designation of areas:
Utah; comments due by 4-9-01; published 3-9-01
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Minnesota; comments due by 4-9-01; published 3-9-01
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 6/P.L. 107–5
Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics. (Mar. 20, 2001; 115 Stat. 7)
Last List March 20, 2001

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